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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 25th November, 2019:—

BILL NO. 362 OF 2019

A Bill further to amend the Income-tax Act, 1961 *and to amend the Finance (No.* 2*) Act,* 2019.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Taxation Laws (Amendment) Act, 2019.

(*2*) Save as otherwise provided, it shall be deemed to have come into force on the 20th day of September, 2019.

CHAPTER II

AMENDMENTS IN THE INCOME-TAX ACT, 1961

Amendment of section 92BA.

43 of 1961.

2. In section 92BA of the Income-tax Act, 1961 (hereafter in this Chapter referred to as the Income-tax Act), after clause (*v*), the following clause shall be inserted, with effect from the 1st day of April, 2020, namely:—

"(*va*) any business transacted between the persons referred to in sub-section (*6*) of section 115BAB;".

Amendment of section 115BA.

3. In section 115BA of the Income-tax Act, with effect from the 1st day of April, 2020,—

(*a*) for the marginal heading "Tax on income of certain domestic companies", the marginal heading "Tax on income of certain manufacturing domestic companies" shall be substituted;

(*b*) in sub-section (*1*), for the words "subject to the other provisions of this Chapter", the words, figures and letters "subject to the other provisions of this Chapter, other than those mentioned under section 115BAA and section 115BAB" shall be substituted;

(*c*) in sub-section (*4*), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that where the person exercises option under section 115BAA, the option under this section may be withdrawn.".

Insertion of new sections 115BAA and 115BAB.

4. After section 115BA of the Income-tax Act, the following sections shall be inserted with effect from the 1st day of April, 2020, namely:—

Tax on income of certain domestic companies.

"115BAA. (*1*) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAB, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of twenty-two per cent., if the conditions contained in sub-section (*2*) are satisfied:

Provided that where the person fails to satisfy the conditions contained in sub-section (*2*) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply, as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(*2*) For the purposes of sub-section (*1*), the following conditions shall apply if the total income of the company has been computed,—

(*i*) without any deduction under the provisions of section 10AA or clause (*iia*) of sub-section (*1*) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (*ii*) or sub-clause (*iia*) or sub-clause (*iii*) of sub-section (*1*) or sub-section (*2AA*) or sub-section (*2AB*) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading "*C.—Deductions in respect of certain incomes*" other than the provisions of section 80JJAA;

(*ii*) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in clause (*i*);

(*iii*) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A, if such loss or depreciation is attributable to any of the deductions referred to in clause (*i*); and

(*iv*) by claiming the depreciation, if any, under any provision of section 32, except clause (*iia*) of sub-section (*1*) of the said section, determined in such manner as may be prescribed.

(*3*) The loss and depreciation referred to in clause (*ii*) and clause (*iii*) of sub-section (*2*) shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year:

Provided that where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2020, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2019 in the prescribed manner, if the option under sub-section (*5*) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2020.

(*4*) In case of a person, having a Unit in the International Financial Services Centre, as referred to in sub-section (*1A*) of section 80LA, which has exercised option under sub-section (*5*), the conditions contained in sub-section (*2*) shall be modified to the extent that the deduction under section 80LA shall be available to such Unit subject to fulfilment of the conditions contained in the said section.

Explanation.—For the purposes of this sub-section, the term "Unit" shall have the same meaning as assigned to it in clause (*zc*) of section 2 of the Special Economic Zones Act, 2005.

28 of 2005.

(*5*) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (*1*) of section 139 for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after the 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that in case of a person, where the option exercised by it under section 115BAB has been rendered invalid due to violation of conditions contained in sub-clause (*ii*) or sub-clause (*iii*) of clause (*a*), or clause (*b*) of sub-section (*2*) of said section, such person may exercise option under this section:

Provided further that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Tax on income of new manufacturing domestic companies.

115BAB. (*1*) Notwithstanding anything contained in this Act but subject to the provisions of this Chapter, other than those mentioned under section 115BA and section 115BAA, the income-tax payable in respect of the total income of a person, being a domestic company, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2020, shall, at the option of such person, be computed at the rate of fifteen per cent., if the conditions contained in sub-section (*2*) are satisfied:

Provided that where the total income of the person, includes any income, which has neither been derived from nor is incidental to manufacturing or production of an article or thing and in respect of which no specific rate of tax has been provided separately under this Chapter, such income shall be taxed at the rate of twenty-two per cent. and no deduction or allowance in respect of any expenditure or allowance shall be allowed in computing such income:

Provided further that the income-tax payable in respect of the income of the person deemed so under second proviso to sub-section (*6*) shall be computed at the rate of thirty per cent.:

Provided also that the income-tax payable in respect of income being short term capital gains derived from transfer of a capital asset on which no depreciation is allowable under the Act shall be computed at the rate of twenty-two per cent.:

Provided also that where the person fails to satisfy the conditions contained in sub-section (*2*) in any previous year, the option shall become invalid in respect of the assessment year relevant to that previous year and subsequent assessment years and other provisions of the Act shall apply to the person as if the option had not been exercised for the assessment year relevant to that previous year and subsequent assessment years.

(*2*) For the purposes of sub-section (*1*), the following conditions shall apply, namely:—

(*a*) the company has been set-up and registered on or after the 1st day of October, 2019, and has commenced manufacturing or production of an article or thing on or before the 31st day of March, 2023 and,—

(*i*) the business is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of a company, business of which is formed as a result of the re-establishment, reconstruction or revival by the person of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in the said section;

(*ii*) does not use any machinery or plant previously used for any purpose.

Explanation 1.—For the purposes of sub-clause (*ii*), any machinery or plant which was used outside India by any other person shall not be regarded as machinery or plant previously used for any purpose, if the following conditions are fulfilled, namely:—

(*A*) such machinery or plant was not, at any time previous to the date of the installation used in India;

(*B*) such machinery or plant is imported into India from any country outside India; and

(*C*) no deduction on account of depreciation in respect of such machinery or plant has been allowed or is allowable under the provisions of this Act in computing the total income of any person for any period prior to the date of the installation of machinery or plant by the person.

Explanation 2.—Where in the case of a person, any machinery or plant or any part thereof previously used for any purpose is put to use by the company and the total value of such machinery or plant or part thereof does not exceed twenty per cent. of the total value of the machinery or plant used by the company, then, for the purposes of sub-clause (*ii*) of this clause, the condition specified therein shall be deemed to have been complied with;

(*iii*) does not use any building previously used as a hotel or a convention centre, as the case may be, in respect of which deduction under section 80-ID has been claimed and allowed.

Explanation.—For the purposes of this sub-clause, the expressions "hotel" and "convention centre" shall have the meanings respectively assigned to them in clause (*a*) and clause (*b*) of sub-section (*6*) of section 80-ID;

(*b*) the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it.

Explanation.—For the removal of doubts, it is hereby clarified that the business of manufacture or production of any article or thing referred to in clause (*b*) shall not include business of,—

(*i*) development of computer software in any form or in any media;

(*ii*) mining;

(*iii*) conversion of marble blocks or similar items into slabs;

(*iv*) bottling of gas into cylinder;

(*v*) printing of books or production of cinematograph film; or

(*vi*) any other business as may be notified by the Central Government in this behalf; and

(*c*) the total income of the company has been computed,—

(*i*) without any deduction under the provisions of section 10AA or clause (*iia*) of sub-section (*1*) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (*ii*) or sub-clause (*iia*) or sub-clause (*iii*) of sub-section (*1*) or sub-section (*2AA*) or sub-section (*2AB*) of section 35 or section 35AD or section 35CCC or section 35CCD or under any provisions of Chapter VI-A under the heading *"C.—Deductions in respect of certain incomes"* other than the provisions of section 80JJAA;

(*ii*) without set off of any loss or allowance for unabsorbed depreciation deemed so under section 72A where such loss or depreciation is attributable to any of the deductions referred to in sub-clause (*i*);

Explanation.—For the removal of doubts, it is hereby clarified that in case of an amalgamation, the option under sub-section (*7*) shall remain valid in case of the amalgamated company only and if the conditions contained in sub-section (*2*) are continued to be satisfied by such company; and

(*iii*) by claiming the depreciation under the provision of section 32, except clause (*iia*) of sub-section (*1*) of the said section, determined in such manner as may be prescribed.

(*3*) The loss referred to in sub-clause (*ii*) of clause (*c*) of sub-section (*2*) shall be deemed to have been given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

(*4*) If any difficulty arises regarding fulfilment of the conditions contained in sub-clause (*ii*) or sub-clause (*iii*) of clause (*a*) of sub-section (*2*) or clause (*b*) of said sub-section, as the case may be, the Board may, with the approval of the Central Government, issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery.

(*5*) Every guideline issued by the Board under sub-section (*4*) shall be laid before each House of Parliament, and shall be binding on the person, and the income-tax authorities subordinate to it.

(*6*) Where it appears to the Assessing Officer that, owing to the close connection between the person to which this section applies and any other person, or for any other reason, the course of business between them is so arranged that the business transacted between them produces to the person more than the ordinary profits which might be expected to arise in such business, the Assessing Officer shall, in computing the profits and gains of such business for the purposes of this section, take the amount of profits as may be reasonably deemed to have been derived therefrom:

Provided that in case the aforesaid arrangement involves a specified domestic transaction referred to in section 92BA, the amount of profits from such transaction shall be determined having regard to arm's length price as defined in clause (*ii*) of section 92F:

Provided further that the amount, being profits in excess of the amount of the profits determined by the Assessing Officer, shall be deemed to be the income of the person.

(*7*) Nothing contained in this section shall apply unless the option is exercised by the person in the prescribed manner on or before the due date specified under sub-section (*1*) of section 139 for furnishing the first of the returns of income for any previous year relevant to the assessment year commencing on or after 1st day of April, 2020 and such option once exercised shall apply to subsequent assessment years:

Provided that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.

Explanation.—For the purposes of section 115BAA and this section, the expression "unabsorbed depreciation" shall have the meaning assigned to it in clause (*b*) of sub-section (*7*) of section 72A.

Amendment of section 115JAA.

5. In section 115JAA of the Income-tax Act, after sub-section (*7*), the following sub-section shall be inserted with effect from the 1st day of April, 2020, namely:—

"(*8*) The provisions of this section shall not apply to a person who has exercised the option under section 115BAA.".

Amendment of section 115JB.

6. In section 115JB of the Income-tax Act, with effect from the 1st day of April, 2020,—

(*a*) in sub-section (*1*), the following proviso shall be inserted, namely:—

"Provided that for the previous year commencing on or after the 1st day of April, 2020, the provisions of this sub-section shall have effect as if for the words "eighteen and one-half per cent." occurring at both the places, the words "fifteen per cent." had been substituted.";

(*b*) for sub-section (*5A*), the following sub-section shall be substituted, namely:—

"(*5A*) The provisions of this section shall not apply to,—

(*i*) any income accruing or arising to a company from life insurance business referred to in section 115B;

(*ii*) a person who has exercised the option referred to under section 115BAA or section 115BAB.".

Amendment of section 115QA.

7. In section 115QA of the Income-tax Act, in sub-section (*1*), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 5th day of July, 2019, namely:—

"Provided that the provisions of this sub-section shall not apply to such buy-back of shares (being the shares listed on a recognised stock exchange), in respect of which public announcement has been made before the 5th day of July, 2019 in accordance with the provisions of the Securities and Exchange Board of India (Buy-back of Securities) Regulations, 2018 made under the Securities and Exchange Board of India Act, 1992. 15 of 1992.

CHAPTER III

AMENDMENTS IN THE FINANCE (NO. 2) ACT, 2019

Amendment of Act No. 23 of 2019.

8. In section 2 of the Finance (No. 2) Act, 2019 [hereafter in this Chapter referred to as the Finance (No. 2) Act], in sub-section (*9*), with effect from the 1st day of April, 2019,—

(*a*) in the second proviso, for the words "First Schedule", the words, figures and letters "First Schedule, except in case of a domestic company whose income is chargeable to tax under section 115BAA or section 115BAB of the Income-tax Act" shall be inserted and shall be deemed to have been inserted;

(*b*) in the third proviso,—

(*i*) in clause (*a*) for the words "the Income-tax Act" the words, figures and letters "the Income-tax Act, not having any income under section 115AD of the Income-tax Act" shall be inserted and shall be deemed to have been inserted;

(*ii*) after clause (*a*), the following clause shall be inserted and shall be deemed to have been inserted, namely:—

'(*aa*) in the case of individual or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act having income under section 115AD of the Income-tax Act,—

(*i*) at the rate of ten per cent. of such "advance tax", where the total income exceeds fifty lakh rupees, but does not exceed one crore rupees;

(*ii*) at the rate of fifteen per cent. of such "advance tax", where the total income exceeds one crore rupees but does not exceed two crore rupees;

(*iii*) at the rate of twenty-five per cent. of such "advance tax", where the total income [excluding the income of the nature referred to in clause (*b*) of sub-section (*1*) of section 115AD of the Income-tax Act] exceeds two crore rupees but does not exceed five crore rupees;

(*iv*) at the rate of thirty-seven per cent. of such "advance tax", where the total income [excluding the income of the nature referred to in clause (*b*) of sub-section (*1*) of section 115AD of the Income-tax Act] exceeds five crore rupees;

(*v*) at the rate of fifteen per cent. of such "advance tax", where the total income [including the income of the nature referred to in clause (*b*) of sub-section (*1*) of section 115AD of the Income-tax Act] exceeds two crore rupees but is not covered in sub-clauses (*iii*) and (*iv*):

Provided that in case where the total income includes any income chargeable under clause (*b*) of sub-section (*1*) of section 115AD of the Income-tax Act, the rate of surcharge on the advance tax calculated on that part of income shall not exceed fifteen per cent.;';

(*iii*) in clause (*c*), in the opening portion, for the words "domestic company", the words, figures and letters "domestic company except such domestic company whose income is chargeable to tax under section 115BAA or section 115BAB of the Income-tax Act," shall be inserted and shall be deemed to have been inserted;

(*c*) in the fourth proviso, for the words, brackets and letter "in (*a*) above", the words, brackets and letters "in (*a*) and (*aa*) above" shall be substituted;

(*d*) after the eighth proviso, the following proviso shall be inserted, namely:—

"Provided also that in case of every domestic company whose income is chargeable to tax under section 115BAA or section 115BAB of the Income-tax Act, the advance tax computed under the first proviso shall be increased by a surcharge, for the purposes of the Union, calculated at the rate of ten per cent. of such "advance tax"."

Amendment of Part II of First Schedule.

9. In the First Schedule of the Finance (No.2) Act,—

(*A*) in PART II, under the sub-heading "Surcharge on income-tax", in paragraph (*i*), in clause (*a*), with effect from the 1st day of April, 2019,—

(*i*) in sub-clauses I and II, after the words "aggregate of such incomes", the brackets, words, figures and letters "(including the income under the provisions of section 111A and section 112A of the Income-tax Act)" shall be inserted and shall be deemed to have been inserted;

(*ii*) in sub-clauses III and IV, after the words "aggregate of such incomes", the brackets, words, figures and letters "(excluding the income under the provisions of section 111A and section 112A of the Income-tax Act)" shall be inserted and shall be deemed to have been inserted;

(*iii*) after sub-clause IV, the following sub-clause shall be inserted and shall be deemed to have been inserted, namely:—

"V. at the rate of fifteen per cent. of such tax, where the income or aggregate of the such incomes (excluding income under the provisions of section 111A and section 112A of the Income-tax Act) paid or likely to be paid and subject to the deduction exceeds two crore rupees, but is not covered under sub-clauses III and IV):

Provided that in case where the total income includes any income chargeable under section 111A and section 112A of the Income-tax Act, the rate of surcharge on the amount of Income-tax deducted in respect of that part of income shall not exceed fifteen per cent.;'';

(*B*) in PART III, in Paragraph A, under the sub-heading "Surcharge on income-tax", after the opening portion,—

(*i*) in clauses (*a*) and (*b*), after the words "having a total income", the brackets, words, figures and letters "(including the income under the provisions of section 111A and section 112A)" shall be inserted;

(*ii*) in clauses (*c*) and (*d*), after the words "having a total income", the brackets, words, figures and letters "(excluding the income under the provisions of section 111A and section 112A)" shall be inserted;

(*iii*) after clause (*d*) and before the proviso, the following clause shall be inserted, namely:—

"(*e*) having a total income (including income under the provisions of section 111A and section 112A) exceeding two crore rupees, but is not covered under clauses (*c*) and (*d*), shall be applicable at the rate of fifteen per cent. of such income-tax:

Provided that in case where the total income includes any income chargeable under section 111A and section 112A of the Income-tax Act, the rate of surcharge on the amount of Income-tax computed in respect of that part of income shall not exceed fifteen per cent.;".

Repeal and savings.

10. (*1*) The Taxation Laws (Amendment) Ordinance, 2019 is hereby repealed. Ord. 15 of 2019.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Finance (No. 2) Act, 2019 (the Finance Act, 2019) was enacted on the 1st day of August, 2019, *inter alia*, to provide the rate of income-tax, surcharge and health and education cess (the cess) to be levied on the income of the financial year 2018-19 and also to provide the rate of income-tax, surcharge and cess to be applicable for deduction of tax at source and payment of advance-tax during the Financial Year 2019-20. Subsequent to the enactment of the Finance Act, 2019 in view of various developments, it was felt that there is an urgent need to take additional fiscal measures so as to boost the investment and growth in the economy for which the Government had already announced certain measures. Some of these measures related to amendments to the Income-tax Act, 1961 (the Income-tax Act) and to the Finance Act, 2019.

2. It was also noticed that many countries, the world over, had reduced corporate income-tax to attract investment and create employment opportunities, thus, necessitating the need of similar measures in the form of reduction of corporate income-tax payable by domestic companies in order to make Indian industry more competitive. Therefore, it was felt that a fiscal stimulus through reduction of corporate income-tax rate of domestic companies may be provided so as to attract the investment, generate employment and boost the economy of the country.

3. In view of the above, it becomes necessary to amend certain provisions of the Income-tax Act, and the Finance Act, 2019. However, as the Parliament was not in session and in view of the urgency felt in the matter, the Taxation Laws (Amendment) Ordinance, 2019 was promulgated on the 20th day of September, 2019.

4. The Taxation Laws (Amendment) Bill, 2019 which seeks to replace the aforesaid Ordinance is on lines to the Taxation Laws (Amendment) Ordinance, 2019. However, in view of representations received from various Stakeholders to provide certainty, it has been proposed to make certain further amendments to the Income-tax Act and the Finance Act, 2019, which are as under—

(*i*) to amend section 115BAA of the Income-tax Act, relating to "tax on income of certain domestic companies" so as to—

(*a*) insert a proviso to sub-section (*1*) that the option of the person with respect to computation of income-tax shall become invalid, if the person fails to fulfil the conditions mentioned in sub-section (*2*) of the said section;

(*b*) insert certain additional grounds in sub-section (*2*) to be complied by the person;

(*c*) insert a new sub-section in the said section relating to option by the person having a Unit in the International Financial Services Centre; and

(*d*) to insert a proviso to sub-section (*5*) that in case where option of the person becomes invalid under section 115BAB for the specified reasons, it may exercise option under section 115BAA;

(*ii*) to amend section 115BAB, relating to "tax on income of new manufacturing domestic companies" so as to—

(*a*) insert certain provisions in sub-section (*1*) relating to computation of different rates of tax for the reasons mentioned therein;

(*b*) to clarify that the benefit of this section shall not be available to the business of—

(*i*) development of computer software in any form or in any media;

(*ii*) mining;

(*iii*) conversion of marble blocks or similar items into slabs;

(*iv*) bottling of gas into cylinder;

(*v*) printing of books or production of cinematograph film; or

(*vi*) any other business notified by Central Government in this behalf; and

(*c*) insert a new sub-section that if any difficulty arises regarding fulfilment of conditions, the Board may issue guidelines for the purpose of removing the difficulty and to promote manufacturing or production of article or thing using new plant and machinery;

(*iii*) to amend section 115JAA of the Income-tax Act relating to "tax credit in respect of tax paid on deemed income of certain companies" so as to insert a new sub-section (*8*) providing that the provisions of section 115JAA shall not apply to a person who has exercised the option under section 115BAA; and

(*iv*) to amend the provisions of the Finance (No. 2) Act, 2019 which are of consequential in nature.

5. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI; NIRMALA SITHARAMAN.
The 21*st November*, 2019.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of D.O. No. 142/20/2019-TPL, dated 21st November, 2019 from Smt. Nirmala Sitharaman, Minister of Finance and Corporate Affairs in the Ministry of Finance to the Secretary-General, Lok Sabha.]

The President having been informed of the subject matter of the Taxation Laws (Amendment) Bill, 2019, recommends under clauses (1) and (3) of Article 117 read with clause (1) of Article 274 of the Constitution of India, the introduction of the Taxation Laws (Amendment) Bill, 2019 to the Lok Sabha for its introduction and also recommends to the Lok Sabha the consideration of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to insert new sections 115BAA and 115BAB in the Income-tax Act relating to tax on income of certain domestic companies and tax on income of new manufacturing domestic companies.

Clause (*iv*) of sub-section (*2*) of proposed section 115BAA provide that for the purposes of sub-section (*1*), while computing the total income of the company, the depreciation under section 32 is determined in the manner as may be prescribed. Sub-clause (*iii*) of clause (*c*) of sub-section (*2*) of proposed section 115BAB provide for prescribing similar manner of determination of depreciation.

Proviso to sub-section (*3*) of proposed section provides that where there is unabsorbed depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on the 1st day of April, 2020, corresponding adjustment shall be made to the written down value of such block of assets as on the 1st day of April, 2019 in the prescribed manner if the option under sub-section (*5*) is exercised for a previous year relevant to the assessment year beginning on the 1st day of April, 2020.

Sub-section (*5*) of the proposed section 115BAA further seeks to provide that the option by the person referred to in sub-section (*1*) shall be exercised in the prescribed manner on or before the due date specified under sub-section (*1*) of section 139 for furnishing the return of income for the relevant previous year. Sub-section (*7*) of proposed section 115BAB provide for prescribing similar manner for exercising option under this section.

BILL NO. 363 OF 2019

A Bill to provide for the establishment of an Authority to develop and regulate the financial services market in the International Financial Services Centres in India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the International Financial Services Centres Authority Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act, and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Application.

28 of 2005.

2. This Act shall apply to the International Financial Services Centres set up under section 18 of the Special Economic Zones Act, 2005.

Definitions.

3. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "appropriate regulator" means any financial sector regulator specified in the First Schedule to this Act;

(*b*) "Authority" means the International Financial Services Centres Authority established under sub-section (*1*) of section 4;

(*c*) "financial institution" means a unit set up in an International Financial Services Centre and which is engaged in rendering financial services in respect of any financial product;

(*d*) "financial product" means—

(*i*) securities;

(*ii*) contracts of insurance;

(*iii*) deposits;

(*iv*) credit arrangements;

(*v*) foreign currency contracts other than contracts to exchange one currency for another that are to be settled immediately; and

(*vi*) any other product or instrument that may be notified by the Central Government from time to time.

(*e*) "financial service" means—

(*i*) buying, selling, or subscribing to a financial product or agreeing to do so;

(*ii*) acceptance of deposits;

(*iii*) safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;

(*iv*) effecting contracts of insurance;

(*v*) offering, managing or agreeing to manage assets consisting of financial products belonging to another person;

(*vi*) exercising any right associated with a financial product or financial service;

(*vii*) establishing or operating an investment scheme;

(*viii*) maintaining or transferring records of ownership of a financial product;

(*ix*) underwriting the issuance or subscription of a financial product;

(*x*) providing information about a person's financial standing or creditworthiness;

(*xi*) selling, providing, or issuing stored value or payment instruments or providing payment services;

(*xii*) making arrangements for carrying on any of the services in sub-clauses (*i*) to (*xi*);

(*xiii*) rendering or agreeing to render advice on or soliciting for the purposes of—

(*A*) buying, selling, or subscribing to, a financial product; or

(*B*) availing any of the services in sub-clauses (*i*) to (*xi*); or

(*C*) exercising any right associated with a financial product or any of the services in clauses (*i*) to (*xi*);

(*xiv*) any other service that may be notified by the Central Government from time to time;

(*f*) "foreign currency" shall have the meaning assigned to it in clause (*m*) of section 2 of the Foreign Exchange Management Act, 1999; 42 of 1999.

(*g*) "International Financial Services Centre" means an International Financial Services Centre set up, before or after the commencement of this Act, under section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*h*) "Member" means a Member of the Authority and includes the Chairperson;

(*i*) "notification" means a notification published in the Official Gazette, and the expressions "notified" and "notify" shall be construed accordingly;

(*j*) "prescribed" means prescribed by rules made by the Central Government under this Act;

(*k*) "regulations" means the regulations made by the Authority under this Act.

(*2*) Words and expressions used and not defined in this Act but defined in the Acts specified under column (*3*) of the First Schedule to this Act shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

ESTABLISHMENT OF AUTHORITY

Establishment and incorporation of Authority.

4. (*1*) The Central Government shall, by notification, for the purposes of this Act, establish an Authority by the name of the International Financial Services Centres Authority.

(*2*) The Authority shall be a body corporate having perpetual succession and a common seal, and subject to the provisions of this Act, with power to enter into and execute contracts, acquire, hold and dispose of property, both movable and immovable, and shall, by the said name, sue and be sued.

(*3*) The head office of the Authority shall be at such place as the Central Government may, by notification, decide.

(*4*) The Authority may, with the prior approval of the Central Government, establish its offices at other places in India or outside India.

Composition of Authority.

5. (*1*) The Authority shall consist of the following Members, to be appointed by the Central Government, namely:—

(*a*) a Chairperson;

(*b*) one Member each to be nominated by—

(*i*) the Reserve Bank of India, *ex officio;*

(*ii*) the Securities and Exchange Board of India, *ex officio;*

(*iii*) the Insurance Regulatory and Development Authority of India, *ex officio;* and

(*iv*) the Pension Fund Regulatory and Development Authority, *ex officio;*

(*c*) two Members, from amongst the officials of the Ministry dealing with Finance, to be nominated by the Central Government, *ex officio;* and

(*d*) two other Members to be appointed by the Central Government on the recommendation of a Selection Committee.

(*2*) The Chairperson shall be a whole-time Member and other Members referred to in clause (*d*) of sub-section (*1*) may be appointed as whole-time or part-time Members as the Central Government may deem fit.

(*3*) The Members shall be persons of ability, integrity and standing who have shown capacity in dealing with matters relating to financial sectors or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which in the opinion of the Central Government, shall be useful to the Authority.

(*4*) The Selection Committee referred to in clause (*d*) of sub-section (*1*) shall consist of such Members and constituted by the Central Government in such manner as may be prescribed.

Terms of office and conditions of service of Chairperson and other Members.

6. (*1*) The Chairperson and a Member shall hold office for a term of three years from the date on which he enters upon his office and shall be eligible for re-appointment:

Provided that no person shall hold office as a Chairperson after he has attained the age of sixty-five years or as a whole-time member after he has attained the age of sixty-two years.

(*2*) The salaries and allowances payable to, and other terms and conditions of service of, the Members, other than *ex officio* Members, shall be such as may be prescribed.

(*3*) Notwithstanding anything in sub-section (*1*), a Member may—

(*a*) resign from his office by giving in writing to the Central Government a notice of not less than three months; or

(*b*) be removed from his office in accordance with the provisions of section 7.

(*4*) No Member, other than *ex officio* Member, shall, for a period of two years from the date on which they cease to hold office as such, except with the previous approval of the Central Government, accept—

(*a*) any employment either under the Central Government or under any State Government; or

(*b*) appointment in any financial institution in the International Financial Services Centres.

Removal of Member from office.

7. The Central Government may remove from office a Member, who—

(*a*) is, or at any time has been, adjudged as insolvent; or

(*b*) has become physically or mentally incapable of acting as a Member; or

(*c*) has been convicted of an offence which in the opinion of the Central Government involves moral turpitude; or

(*d*) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(*e*) has so abused his position so as to render his continuance in office detrimental to public interest:

Provided that no Member shall be removed from office under clause (*d*) or clause (*e*) unless he has been given a reasonable opportunity of being heard in the matter.

Meetings of Authority.

8. (*1*) The Authority shall meet at such times and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be specified by regulations.

(*2*) The Chairperson, if for any reason, he is unable to attend a meeting of the Authority, any other Member chosen by the Members present from amongst themselves at the meeting shall preside at the meeting.

(*3*) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the Members present and voting, and, in the event of an equality of votes, the Chairperson, or in his absence, the person presiding, shall have a casting vote.

(*4*) Any Member who has any direct or indirect interest in any matter likely to come up for consideration at a meeting of the Authority shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose in writing, the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority and such Member shall not take part in any deliberation or decision of the Authority with respect to that matter.

Vacancies, etc., not to invalidate proceedings of Authority.

9. No act or proceeding of the Authority shall be invalid merely by reason of,—

(*a*) any vacancy or defect, in the constitution of the Authority; or

(*b*) any defect in the appointment of a person as a Member of the Authority.

Administrative powers of Chairperson.

10. The Chairperson shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

Officers and other employees of Authority.

11. (*1*) The Authority may appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(*2*) The salaries and allowances payable to, and other terms and conditions of service of, officers and other employees of the Authority appointed under sub-section (*1*) shall be such as may be specified by regulations.

CHAPTER III

POWERS AND FUNCTIONS OF AUTHORITY

Functions of Authority.

12. (*1*) Subject to the provisions of this Act, it shall be the duty of the Authority to develop and regulate the financial products, financial services and financial institutions in the International Financial Services Centres, by such measures as it deems fit.

(*2*) Without prejudice to the generality of the provisions in sub-section (*1*), the powers and functions of the Authority shall include—

(*a*) regulating the financial products, financial services and financial institutions in an International Financial Services Centre which have been permitted, before the commencement of this Act, by any regulator for any International Financial Services Centre;

(*b*) regulating such other financial products, financial services or financial institutions in the International Financial Services Centres as may be notified by the Central Government from time to time;

(*c*) recommending to the Central Government such other financial products, financial services and financial institutions which may be permitted in an International Financial Service Centre by the Central Government;

(*d*) perform such other functions as may be prescribed.

Powers of Authority in relation to financial products, financial services and financial institutions.

13. (*1*) Notwithstanding anything contained in any other law for the time being in force, all powers exercisable by an appropriate regulator, specified under column (*2*) of the First Schedule, under the respective Acts as specified in the corresponding entry under column (*3*) of the said Schedule shall, in the International Financial Services Centres, be exercised by the Authority in so far as it relates to the regulation of the financial products, financial services or financial institutions, as the case may be.

(*2*) The Central Government may, by notification, amend the First Schedule by including therein any financial sector regulator and the law administered by it, or omitting therefrom

any financial sector regulator or any law specified therein, and on the publication of such notification, such regulator and the law shall be deemed to be included in, or omitted from, the First Schedule.

(*3*) Every notification issued under sub-section (*2*) shall be laid before each House of Parliament.

(*4*) For the purposes of sub-section (*1*), the provisions of the respective Acts specified under column (*3*) of the First Schedule relating to—

(*a*) the manner of filing an application for recognition or registration or withdrawal of recognition or registration or furnishing of information or reports;

(*b*) the procedure of inspection, investigation or prosecution of offences, settlement of civil and administrative proceedings, compounding or adjudication of any offence or penalty, or actions to be taken in furtherance of such inspection, investigation, or adjudication or filing of appeals arising therefrom;

(*c*) the determination or settlement, as the case may be, of any fee or fine or penalty or any other sum of amount or punishment for the contravention of any provisions of respective Acts specified in the First Schedule and recovery of such fine or penalty,

shall, *mutatis mutandis*, apply to financial products, financial services and financial institutions under this Act, as they apply to the financial products, financial services and financial institutions under such respective Acts.

(*5*) The penalties, fines, fees and settlement amounts shall be collected or realised in the foreign currency equivalent of the penalty or fine imposed.

Explanation.—The rate of exchange for computing the foreign currency equivalent to Indian rupees shall be such as are as notified by the Reserve Bank of India on the date of the order imposing the penalty or fine, as the case may be.

(*6*) All sums realised by way of penalties or fines under this Act shall be credited to the Consolidated Fund of India in Indian rupees.

(*7*) The Authority may, in addition to the above, specify by regulations the manner in which the functions may be performed by the Authority for carrying out the provisions of this section.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants by Central Government.

14. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Authority grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Fund of Authority.

15. (*1*) There shall be constituted a Fund to be called the International Financial Services Centres Authority Fund and there shall be credited thereto—

(*a*) all grants, fees and charges received by the Authority under this Act; and

(*b*) all sums received by the Authority from the sources as may be decided upon by the Central Government.

(*2*) The Fund shall be applied for meeting—

(*a*) the salaries, allowances and other remuneration of Members, officers and other employees of the Authority; and

(*b*) other expenses incurred by the Authority in connection with the discharge of its functions and for the purposes of this Act.

Accounts and audit.

16. (*1*) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(*4*) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Performance Review Committee.

17. (*1*) The Authority shall constitute a Performance Review Committee, consisting of at least two Members of the Authority to review the functioning of the Authority, whether—

(*a*) it has adhered to the provisions of the applicable laws while exercising powers or performing functions under this Act;

(*b*) the regulations made by the Authority to give effect to the provisions of this Act promote transparency and best practices of governance; and

(*c*) the Authority is managing risks to its functioning in a reasonable manner.

(*2*) The Performance Review Committee shall make the review under sub-section (*1*) at least once in every financial year, and submit a report of its findings to the Authority which shall forward a copy thereof along with action taken, if any, pursuant to such report to the Central Government within a period of three months from the date of receipt of the report.

(*3*) The Performance Review Committee shall maintain a system by which any person may submit to the committee, any incidence of—

(*a*) non-adherence of the provisions of any applicable law by the Authority;

(*b*) misappropriation of resources of the Authority by any person;

(*c*) abuse of powers of the Authority by any Member or employee of the Authority; or

(*d*) non-compliance of any decision of the Authority by any Member or employee of the Authority.

(*4*) The Authority shall make regulations governing the information to be provided to the Performance Review Committee, and the provision of adequate resources to enable the committee to discharge its functions under this section.

Maintenance of website.

18. (*1*) The Authority shall maintain such website or any other universally accessible repository of electronic information as may be specified by regulations.

(*2*) All the regulations and orders issued by the Authority shall be published in its website or repository maintained under sub-section (*1*).

(*3*) The Authority shall review the quality of the website or the repository, based on international best practices, once every year and publish the report containing its findings with the annual report.

Returns and reports.

19. (*1*) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars with regard to any proposed or existing programme for the development and regulation of the units in the International Financial Services Centres, as the Central Government may, from time to time, require.

(*2*) Without prejudice to the provisions of sub-section (*1*), the Authority shall, within ninety days after the end of each financial year, submit to the Central Government, a report in such form, as may be prescribed, giving a true and full account of its activities, policies and programmes during the previous financial year.

(*3*) A copy of the report received under sub-section (*2*) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER V

FOREIGN EXCHANGE TRANSACTIONS

Transactions in foreign currency.

20. Every transaction of financial services in an International Financial Services Centre shall be in such foreign currency as may be specified by regulations in consultation with the Central Government.

CHAPTER VI

MISCELLANEOUS

Power to issue directions.

21. (*1*) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(*2*) The decision of the Central Government, whether a question is one of policy or not, shall be final.

Power of Central Government to supersede Authority.

22. (*1*) If at any time the Central Government is of the opinion that—

(*a*) on account of circumstances beyond the control of the Authority, it is unable to discharge the functions or perform the duties imposed on it by or under this Act; or

(*b*) the Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under this Act and as a result of such default the financial position of the Authority or the administration of the Authority has deteriorated; or

(*c*) circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification and for reasons to be specified therein, supersede the Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Authority to make representations, if any, of the Authority.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding the Authority,—

(*a*) the Chairperson and other Members shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under this Act, be exercised or discharged by or on behalf of the Authority shall, until the Authority is reconstituted under sub-section (*3*), be exercised and discharged by such person or persons as the Central Government may direct; and

(*c*) all properties owned or controlled by the Authority shall, until the Authority is reconstituted under sub-section (*3*), vest in the Central Government.

(*3*) On or before the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government shall reconstitute the Authority by a fresh appointment of its Chairperson and other Members and in such case any person who had vacated his office under clause (*a*) of sub-section (*2*) shall not be deemed to be disqualified for reappointment.

(*4*) The Central Government shall, as soon as may be, cause a copy of the notification issued under sub-section (*1*) and a full report to any action taken by it, to be laid before each House of Parliament.

Delegation of powers.

23. (*1*) The Authority may, by general or special order in writing, delegate to any Member or officer of the Authority subject to such conditions, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 28) as it may deem necessary.

(*2*) The Authority may, by a general or special order in writing, also form committees of the Members and delegate to them the powers and functions of the Authority, as may be specified by regulations.

Members, officers and employees of the Authority to be public servants.

24. The Members, officers and employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Protection of action taken in good faith.

25. No suit, prosecution or other legal proceedings shall lie against the Central Government or the Authority or its Members, officers or other employees, for anything which is done, or intended to be done, in good faith under this Act.

Exemption from tax.

26. Nothing contained in any other law or enactment for the time being in force, in relation to taxation, including the Income-tax Act,1961, shall make the Authority liable to pay income-tax or any other tax or duty with respect to its income, services or profits or gains. 43 of 1961.

Power to make rules.

27. (*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the composition and the manner of constitution of the Selection Committee under sub-section (*4*) of section 5;

(*b*) the salaries and allowances and other terms and conditions of service of Members under sub-section (*2*) of section 6;

(*c*) other functions to be performed by the Authority under clause (*d*) of sub-section (*2*) of section 12;

(*d*) the form in which the accounts and other relevant records to be maintained and annual statement of accounts to be furnished under sub-section (*1*) of section 16;

(*e*) the form and manner of furnishing of returns and statements and other particulars under sub-section (*1*) of section 19;

(*f*) the form of annual report of activities, policies and programmes under sub-section (*2*) of section 19;

(*g*) any other matter which is to be, or may be, prescribed.

Power to make regulations.

28. (*1*) The Authority may, by notification, make regulations consistent with this Act and the rules made thereunder for carrying out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the time and place of meetings and the rules of procedure in regard to transaction of business at such meetings under sub-section (*1*) of section 8;

(*b*) the salaries and allowances and other terms and conditions of service of officers and other employees of Authority under sub-section (*2*) of section 11;

(*c*) the manner in which the Authority may perform its functions under sub-section (*7*) of section 13;

(*d*) the manner of providing information to the Performance Review Committee under sub-section (*4*) of section 17;

(*e*) the maintenance of the website or any other universally accessible repository of electronic information under sub-section (*1*) of section 18;

(*f*) the foreign currency in which transaction of financial services in International Financial Services Centres may be conducted under section 20;

(*g*) the powers and functions of the Authority which may be delegated under sub-section (*2*) of section 23;

(*h*) any other matter which is required to be, or may be, specified by regulations.

Rules and regulations to be laid before Parliament.

29. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Overriding effect.

30. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to modify provisions of other enactments in relation to International Financial Services Centres.

31. (*1*) The Central Government may, by notification, direct that any of the provisions of any other Central Act or any rules or regulations made thereunder or any notification or order issued or direction given thereunder (other than the provisions relating to making of the rules or regulations) specified in the notification—

(*a*) shall not apply to financial products, financial services or financial institutions, as the case may be, in an International Financial Services Centre; or

(*b*) shall apply to financial products, financial services or financial institutions, as the case may be, in an International Financial Services Centre with such exceptions, modifications and adaptations, as may be specified in the notification.

(*2*) A copy of every notification proposed to be issued under sub-section (*1*), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses.

Power to remove difficulties.

32. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of five years from the commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Amendment to certain enactments.

33. The enactments specified in the Second Schedule shall be amended in the manner specified therein.

Savings.

34. All rules and regulations made or purporting to have been made or all notifications issued or purporting to have been issued under any Central Act relating to the financial products, financial services or financial institutions, as the case may be, shall, in so far as they relate to matters for which provision is made in this Act or the rules or regulations made or notification issued thereunder and are not inconsistent therewith, be deemed to have been made or issued under this Act as if this Act had been in force on the date on which such rules were made or notifications were issued and shall continue to be in force unless and until they are superseded by any rules or regulations made or notifications issued under this Act.

THE FIRST SCHEDULE

[*See* sections 3(*1*)(*a*), 13(*1*), (*2*) and (*4*)]

APPROPRIATE REGULATORS

Sl.No.	Appropriate Regulator	Name of Acts
(1)	(2)	(3)
1.	The Reserve Bank of India constituted under the Reserve Bank of India Act, 1934 (2 of 1934).	1. The Reserve Bank of India Act, 1934 (2 of 1934); 2. The Banking Regulation Act, 1949 (10 of 1949); 3. The Deposit Insurance and Credit Guarantee Corporation Act, 1961 (47 of 1961); 4. The Foreign Exchange Management Act, 1999 (42 of 1999); 5. The Credit Information Companies (Regulation) Act, 2005 (30 of 2005); 6. The Government Securities Act, 2006 (38 of 2006); 7. The Payment and Settlement Systems Act, 2007 (51 of 2007).
2.	The Securities and Exchange Board of India established under the Securities and Exchange Board of India Act, 1992 (15 of 1992).	1. The Securities Contracts (Regulation) Act, 1956 (42 of 1956); 2. The Securities and Exchange Board of India Act, 1992 (15 of 1992); 3. The Depositories Act, 1996 (22 of 1996).
3.	The Insurance Regulatory and Development Authority of India constituted under the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).	1. The Insurance Act, 1938 (4 of 1938); 2. The General Insurance Business (Nationalisation) Act, 1972 (57 of 1972) ; 3. The Insurance Regulatory and Development Authority Act, 1999 (41 of 1999).
4.	The Pension Fund Regulatory and Development Authority constituted under the Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).	The Pension Fund Regulatory and Development Authority Act, 2013 (23 of 2013).

THE SECOND SCHEDULE

[*See* section 33]

AMENDMENT TO CERTAIN ENACTMENTS

PART I

AMENDMENT TO THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

Insertion of new section after section 57.

After section 57, the following section shall be inserted, namely:—

Powers of Bank not to apply to International Financial Services Centre.

"57A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Bank under this Act,—

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART II

AMENDMENT TO THE INSURANCE ACT, 1938 (4 OF 1938)

Insertion of new section after section 118.

After section 118, the following section shall be inserted, namely:—

Powers of Authority not to apply to International Financial Services Centre.

"118A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Authority under this Act,—

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART III

AMENDMENT TO THE BANKING REGULATION ACT, 1949

(10 OF 1949)

Insertion of new section after section 51.

After section 51, the following section shall be inserted, namely:—

Powers of Reserve Bank not to apply to International Financial Services Centre.

"51A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,—

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centre Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART IV

AMENDMENT TO THE SECURITIES CONTRACTS (REGULATION) ACT, 1956 (42 OF 1956)

After section 29A, the following section shall be inserted, namely:— Insertion of new section after section 29A.

"29B. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Securities and Exchange Board of India under this Act,— Powers of the Securities and Exchange Board of India not to apply to International Financial Services Centre.

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART V

AMENDMENT TO THE DEPOSIT INSURANCE AND CREDIT GUARANTEE CORPORATION ACT, 1961 (47 OF 1961)

After section 43, the following section shall be inserted, namely:— Insertion of new section after section 43.

"43A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,— Powers of Reserve Bank not to apply to International Financial Services Centre.

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART VI

AMENDMENT TO THE GENERAL INSURANCE BUSINESS (NATIONALISATION) ACT, 1972 (57 OF 1972)

After section 38, the following section shall be inserted, namely:— Insertion of new section after section 38.

"38A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Insurance Regulatory and Development Authority of India under this Act,— Powers of Insurance Regulatory and Development Authority of India not to apply to International Financial Services Centre.

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART VII

AMENDMENT TO THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 (15 OF 1992)

Insertion of new section after section 28B.

After section 28B, the following section shall be inserted, namely:—

Powers of Board not to apply to International Financial Services Centre.

"28C. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Board under this Act,—

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART VIII

AMENDMENT TO THE DEPOSITORIES ACT, 1996 (22 OF 1996)

Insertion of new section after section 23F.

After section 23F, the following section shall be inserted, namely:—

Powers of Board not to apply to International Financial Services Centre.

"23G. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Board under this Act,—

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART IX

AMENDMENT TO THE INSURANCE REGULATORY AND DEVELOPMENT AUTHORITY ACT, 1999 (41 OF 1999)

After section 23, the following section shall be inserted, namely:— Insertion of new section after section 23.

"23A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Authority under this Act,— Powers of Authority not to apply to International Financial Services Centre.

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART X

AMENDMENT TO THE FOREIGN EXCHANGE MANAGEMENT ACT, 1999 (42 OF 1999)

After section 44, the following section shall be inserted, namely:— Insertion of new section after section 44.

"44A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,— Powers of Reserve Bank not to apply to International Financial Services Centre.

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART XI

AMENDMENT TO THE CREDIT INFORMATION COMPANIES (REGULATION) ACT, 2005 (30 OF 2005)

After section 33, the following section shall be inserted, namely:— Insertion of new section after section 33.

"33A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,— Powers of Reserve Bank not to apply to International Financial Services Centre.

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART XII

AMENDMENT TO THE GOVERNMENT SECURITIES ACT, 2006
(38 OF 2006)

Insertion of new section after section 31.

After section 31, the following section shall be inserted, namely:—

Powers of Bank not to apply to International Financial Services Centre.

"31A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Bank under this Act,—

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centre Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART XIII

AMENDMENT TO THE PAYMENT AND SETTLEMENT SYSTEMS ACT, 2007
(51 OF 2007)

Insertion of new section after section 34A.

After section 34A, the following section shall be inserted, namely:—

Powers of Reserve Bank not to apply to International Financial Services Centre.

"34B. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Reserve Bank under this Act,—

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

PART XIV

AMENDMENT TO THE PENSION FUND REGULATORY AND DEVELOPMENT AUTHORITY ACT, 2013
(23 OF 2013)

Insertion of new section after section 50.

After section 50, the following section shall be inserted, namely:—

Powers of Authority not to apply to International Financial Services Centre.

"50A. Notwithstanding anything contained in any other law for the time being in force, the powers exercisable by the Authority under this Act,—

(*a*) shall not extend to an International Financial Services Centre set up under sub-section (*1*) of section 18 of the Special Economic Zones Act, 2005; 28 of 2005.

(*b*) shall be exercisable by the International Financial Services Centres Authority established under sub-section (*1*) of section 4 of the International Financial Services Centres Authority Act, 2019,

in so far as regulation of financial products, financial services and financial institutions that are permitted in the International Financial Services Centre are concerned.".

STATEMENT OF OBJECTS AND REASONS

Section 18 of the Special Economic Zones Act, 2005 (28 of 2005) provides that the Central Government may approve the setting up of an International Financial Services Centre in a Special Economic Zone and may prescribe the requirements for setting up and operation of such Centre.

2.The first International Financial Services Centre in India has been set up at GIFT City in Gandhinagar, Gujarat. An International Financial Services Centre enables bringing back the financial services and transactions that are currently carried out in offshore financial centres by Indian corporate entities and overseas branches and subsidiaries of financial institutions to India by offering world class business and regulatory environment. It would enable Indian corporates easier access to global financial markets.

3. Currently, the banking, capital markets and insurance sectors in International Financial Services Centres are regulated by multiple regulators such as the Reserve Bank of India, the Securities and Exchange Board of India and the Insurance Regulatory and Development Authority of India. These regulators have issued various regulations and guidelines under respective Acts for regulation of banking, capital markets and insurance business in International Financial Services Centres.

4. The development of financial products and services in International Financial Services Centres require focused and dedicated regulatory interventions and require a high level inter-regulatory coordination. It is, therefore, decided to establish a unified financial regulator to provide world class regulatory environment to such financial market participants and promote ease of doing business.

5.Accordingly, the International Financial Services Centres Authority Bill, 2019, *inter alia*, provides—

(*a*) for the establishment of the International Financial Services Centres Authority (the Authority) to develop and regulate the financial services market in the International Financial Services Centres in India;

(*b*) that the powers and functions of the financial sector regulators under the respective Acts shall be exercised and performed by the Authority in so far as they relate to the regulation of financial products, financial services and financial institutions in the International Financial Services Centres;

(*c*) that every transaction of financial services in the International Financial Services Centres shall be in such foreign currency as may be specified by the Authority in consultation with the Central Government;

(*d*) for the constitution of a Performance Review Committee consisting of at least two members of the Authority for review of the functioning of the Authority on annual basis;

(*e*) for amendment of certain enactments which are considered necessary for the purposes of proposed legislation.

6. The Notes on Clauses explain in detail the various provisions in the Bill.

7. The Bill seeks to achieve the above objects.

NEW DELHI; NIRMALA SITHARAMAN.

The 21*st November,* 2019.

Notes on clauses

Clause 1.—This clause provides for the short title and commencement of the proposed legislation.

Clause 2.—This clause provides for the application of the proposed legislation to the International Financial Services Centres set up under section 18 of the Special Economic Zones Act, 2005.

Clause 3.—This clause provides for the definition of the expressions used in the Bill such as "appropriate regulator", "Authority", "financial product", "financial institution", "foreign currency", "International Financial Services Centre", "Member", "notification", "prescribe" and "regulations".

Clause 4.— This clause provides for the establishment and incorporation of Authority.

It provides that the Central Government shall by notification establish an Authority to be called the International Financial Services Centres Authority as a body corporate. It further provides that the head office of the Authority shall be at such place as the Central Government may, by notification, decide and it may establish offices at other places in India or outside India with the prior approval of the Central Government.

Clause 5.—This clause provides for the composition of the Authority. It provides that the Authority shall consists of a Chairperson, one member each to be nominated by the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory and Development Authority, two Members, from amongst the officials of the Ministry dealing with Finance and two other Members to be appointed by the Central Government on the recommendation of a Selection Committee.

Clause 6.—This clause provides for term of office and conditions of service of the Chairperson and other members of the Authority. It provides that the Chairperson and every other member shall hold office for a term of three years from the date on which he enters upon his office and shall be eligible for reappointment. However, no person shall hold office as a Chairperson after he has attained the age of sixty-five years and no person shall hold office as a whole-time member after he has attained the age of sixty-two years.

It further provides that the salary and allowances payable to, and other terms and conditions of service of the members other than *ex officio* member shall be such as may be prescribed. It also provides that a member may resign from his office by giving in writing to the Central Government, a notice of not less than three months or may be removed from his office in accordance with the provisions of clause 7. It also provides restriction on the future employment of members other than *ex officio* members.

Clause 7.—This clause provides for removal of members from office. It provides that the Central Government may remove any Member on the grounds of insolvency, physical or mental incapacity, conviction of an offence involving moral turpitude, acquisition of financial or other interest prejudicial to his functions as a member or abuse of position. It further provides that no member shall be removed on certain grounds, unless he has been given a reasonable opportunity of being heard in the matter.

Clause 8.—This clause provides for meetings of Authority.

Clause 9.—This clause provides for vacancies, etc., not to invalidate proceedings of Authority.

Clause 10.—This clause provides for administrative powers of Chairperson. It provides that he shall have the powers of general superintendence and direction in respect of all administrative matters of the Authority.

Clause 11.—This clause provides for officers and other employees of the Authority. It provides that the Authority may appoint such officers and other employees as may be necessary for the efficient discharge of its functions under the proposed legislation. It further provides that the terms and other conditions of service of its officers and employees shall be such as may be specified by regulations.

Clause 12.—This clause provides for functions of the Authority. It provides that the functions of the Authority include power to regulate the financial products, financial services and financial institutions in an International Financial Services Centre which have been permitted by any regulator for any International Financial Services Centre; such other financial products, financial services or financial institutions in the International Financial Services Centres as may be notified by the Central Government from time to time, recommendations to the Central Government such other financial products, financial services and financial institutions which may be permitted in an International Financial Service Centre by the Central Government and perform such other functions as may be prescribed.

Clause 13.—This clause provides for powers of Authority in relation to financial products, financial services and financial institutions. It provides that all powers exercisable by an appropriate regulator under the respective Acts specified under the First Schedule shall, in the International Financial Services Centres, be exercised by the Authority in so far as it relate to the regulation of the financial products, financial services or financial institutions, as the case may be. It further confers power upon the Central Government to amend the First Schedule by including or omitting therefrom any financial sector regulator or any law by notification which shall be laid before each House of Parliament.

It also provides that the provisions of the respective Acts relating to certain matter specified therein shall, *mutatis mutandis*, apply to financial products, financial services and financial institutions under the proposed legislation, as they apply to the financial products, financial services and financial institutions under such respective Acts. It also provides that the penalties, fines, fees and settlement amounts shall be collected or realised in foreign currency and deposited in Consolidated Fund of India in Indian rupees.

Clause 14.—This clause provides for grants by the Central Government. It provides that the Central Government may make grants of such sums to the Authority after due appropriation by law made by Parliament, to be utilised for the purposes of the proposed legislation.

Clause 15.—This clause provides for constitution of the International Financial Services Centres Authority Fund to which all grants fees and charges received by the Authority under this Act and all sums received by the Authority from the sources as may be decided upon by the Central Government be credited to the Fund. It further provides that the Fund shall be applied for the salaries, allowances and other remuneration of Members, officers and other employees of the Authority and other expenses incurred by the Authority in connection with the discharge of its functions and for the purposes of this proposed legislation.

Clause 16.—This clause provides for accounts and audit of the Authority. It provides that the Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts according to rules made by the Central Government in consultation with the Comptroller and Auditor-General of India. It further provides that the accounts of the Authority shall be audited by the Comptroller and Auditor-General of India.

It also provides that the Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights, privileges and authority as the Comptroller and Auditor-General of India generally has in connection with the audit of Government accounts and can demand the production of books, accounts and other documents and inspect any of the offices of the Authority. It also provides that the audited accounts and the audit report of the Authority have to be forwarded annually to the Central Government which then has to laid before each House of Parliament.

Clause 17.—This clause provides for Performance Review Committee. It provides that Authority shall constitute a Performance Review Committee consisting of at least two Members of the Authority to review the functioning of the Authority. It further provides that the Performance Review Committee shall make the review at least once in every financial year, and submit a report of its findings to the Authority which shall forward a copy thereof along with action taken, if any, pursuant to such report to the Central Government within a period of three months from the date of receipt of the report.

Clause 18.—This clause provides for the maintenance of website or any other universally accessible repository of electronic information as may be specified by regulations.

Clause 19.—This clause provides for furnishing of returns, etc., to the Central Government.

It provides that the Authority shall furnish to the Central Government, returns, statements and other particulars with regard to any proposed or existing programme for the promotion and development and regulation of the units in the International Financial Services Centres as required by Central Government. It further provides that the Authority shall, within ninety days after the close of each financial year, submit to the Central Government a report on its activities during the previous financial year, including the activities, policy and programmes under the proposed legislation. It also provides that copies of the reports shall be laid, as soon as possible, after they are received, before each House of Parliament.

Clause 20.—This clause provides that every transaction of financial services in an International Financial Services Centre shall be in such foreign currency as may be specified by regulations by the Authority in consultation with the Central Government.

Clause 21.—This clause provides for power to issue directions. It confers power upon the Central Government to issue directions to the Authority which shall be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time. However, before giving such directions, the Authority shall be given an opportunity of being heard.

Clause 22.—This clause provides for supersession of the Authority by Central Government. It confers power upon the Central Government to supersede the Authority for a maximum period of six months by issuing a notification, if it is of the opinion that the Authority is unable to discharge its functions or perform its duties on account of circumstances beyond its control or if the Authority has persistently defaulted in complying with any direction issued by the Central Government or in the discharge of its functions or performance of its duties and as a result of such default, the financial position of the Authority or the administration of the Authority has deteriorated; or circumstances exist which render it necessary in the public interest. However, before issuing any such notification, the Central Government has to give a reasonable opportunity to the Authority to make representations against the proposed supersession and consider any representations of the Authority.

It further provides that when the notification superseding the Authority is published, the Chairperson and other members shall vacate their offices as from the date of supersession and all the powers, functions and duties of the Authority shall be exercised and discharged by such person as the Central Government may direct and all properties owned or controlled by the Authority shall vest in the Central Government, until the Authority is reconstituted.

It also provides that the Central Government shall reconstitute the Authority on or before the expiration of the period of supersession specified in the notification. It also provides that the Central Government shall, as soon as possible

place a copy of the notification regarding supersession of the Authority and a full report of any action taken by it, before each House of Parliament.

Clause 23.—This clause provides for delegation of powers by Authority. It provides that the Authority may delegate its powers (other than the power to make regulations) and functions by general or special order in writing, to any member, officer of the Authority or any other person subject to conditions, if any, specified in the order. It further provides that the Authority may, by a general or special order in writing, also form committees of the members and delegate to them the powers and functions of the Authority as may be specified by regulations.

Clause 24.—This clause provides that the Chairperson, other members, officers and other employees of the Authority shall be deemed to be public servants, when carrying out any of the provisions of the proposed legislation.

Clause 25.—This clause provides that no prosecution or other legal proceedings can be instituted against the Central Government or the Authority or any of their officers, etc., for anything done in good faith under the proposed legislation or the rules or regulations made thereunder.

Clause 26.—This clause seeks to exempt the Authority from tax on wealth, income, services or profits and gains.

Clause 27.—This clause provides for power of the Central Government to make rules.

Clause 28.—This clause provides for powers of the Authority to make regulations.

Clause 29.—This clause provides for laying rules and regulations before each House of Parliament.

Clause 30.—This clause provides for overriding effect of the proposed legislation.

Clause 31.—This clause provides for power to modify provisions of other enactments in relation to International Financial Services Centres.

Clause 32.—This clause provides for removal of difficulties.

Clause 33.—This clause provides for amendment of certain enactments specified in the Second Schedule in the manner specified therein.

Clause 34.—This clause provides for savings. It provides that all rules and regulations made or purporting to have been made or all notifications issued or purporting to have been issued under any Central Act relating to the financial products, financial services or financial institutions, as the case may be, shall, in so far as they relate to matters for which provision is made in this Act or the rules or regulations made or notification issued thereunder and are not inconsistent therewith, be deemed to have been made or issued under this Act as if this Act had been in force on the date on which such rules were made or notifications were issued and shall continue to be in force unless and until they are superseded by any rules or regulations made or notifications issued under this Act.

FINANCIAL MEMORANDUM

Sub-clause (*1*) of clause 4 of the Bill provides that the Central Government may, from such date as may be appointed by it, establish for the purposes of the proposed legislation an Authority to be called the International Financial Services Centres Authority. Sub-clause (*2*) of clause 6 of the Bill provides that the Central Government shall prescribe the salary, allowances and other terms and conditions of service of the Chairperson and other members of the Authority. Clause 11 of the Bill provides that the Authority shall appoint officers and other employees as it considers necessary for the efficient discharge of its functions under the proposed legislation and frame regulations regarding their salary, allowances and other terms and conditions of service.

2. Clause 14 of the Bill provides that the Central Government may make grants to the Authority to be utilised for the purposes of the proposed legislation, after due appropriation made by Parliament by law.

3. Sub-clause (*1*) of clause 15 of the Bill provides for the constitution of a fund to be called the International Financial Services Centres Authority Fund into which all Government grants, fees and charges received by the Authority and all sums received by the Authority from other sources decided by the Central Government shall be credited.

4. It is estimated that there would be a recurring expenditure of approximately ten crore rupees in the initial years starting 2019-20, including grants given to the Authority, to be borne by the Central Government. This would include expenditure for salaries, allowances and other establishment expenses of the Authority. In the course of time, the Authority is expected to finance its expenses out of the fees and other revenues collected by it in the normal course of its functioning.

5. The Bill, if enacted and brought into operation, would not involve any other expenditure of a recurring or non-recurring nature other than that mentioned in the preceding paragraph.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 27 of the Bill empowers the Central Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (*2*) enumerates the matters in respect of which such rules may be made. These matters, *inter alia,* include (*a*) the salary and allowances and other terms and conditions of service of Members of the Authority; (*b*) the composition and the manner of constitution of the Selection Committee for selection of Members of the Authority; (*c*) other functions to be performed by the Authority; (*d*) the form in which the accounts and other relevant records to be maintained and annual statement of accounts to be furnished by the Authority; (*e*) the form and manner of furnishing of returns and statements and other particulars by the Authority; and (*f*) the form of annual report of activities, policy and programmes of the Authority.

2. Clause 28 of the Bill empowers the International Financial Services Centres Authority to make, by notification in the Official Gazette, regulations for carrying out the provisions of the proposed legislation. Such regulations should be consistent with the provisions of the proposed legislation and the rules made thereunder. The matters in respect of which the Authority may make regulations, *inter alia,* include (*a*) the time and place of meetings of the Authority and the rules of procedure in regard to transaction of business at such meetings; (*b*) the salary and allowances and other terms and conditions of service of officers and other employees of Authority; (*c*) the manner in which the Authority may perform its functions; (*d*) the manner of providing information to the Performance Review Committee of the Authority; (*e*) the maintenance of the website or any other universally accessible repository of electronic information; (*f*) the foreign currency in which transaction of financial services in International Financial Services Centres may be conducted; and (*g*) the powers and functions of the Authority which may be delegated.

3. The rules and regulations made under the proposed legislation shall be laid before each House of Parliament.

4. The matters in respect of which rules or regulations may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 361 OF 2019

A Bill to provide for the regulation of recycling of ships by setting certain standards and laying down the statutory mechanism for enforcement of such standards and for matters connected therewith or incidental thereto.

WHEREAS, the International Maritime Organisation adopted the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009 which ensures that ships, when being recycled after the end of their operational lives, do not pose any unnecessary risk to the environment and to human health and safety;

AND WHEREAS, the said Convention was developed with inputs from International Maritime Organisation Member States, Non-Governmental Organisations and in co-operation with the International Labour Organisation and the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989;

AND WHEREAS, the Hong Kong Convention lays down the aspects relating to design, construction, operation and preparation of ships so as to facilitate safe and environmentally sound recycling, without compromising the safety and operational efficiency of ships and the establishment of an appropriate enforcement mechanism for recycling of ships;

AND WHEREAS, the said Convention contains the provisions which are not covered in the Ship-breaking Code (Revised), 2013 notified by the Government of India to regulate the recycling of ships in India;

AND WHEREAS, the said Convention lays down the multilateral framework to be followed internationally by countries which become a party to it;

AND WHEREAS, India, being a Member-State of the International Maritime Organisation, had participated in the said Convention and expressed views for the protection of environment and human health and safety during the process of recycling of ships;

AND WHEREAS, it is considered expedient to accede to the aforesaid Convention now and to have an appropriate legislation on issues relating to the recycling of ships.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title, commencement and application.

1. (*1*) This Act may be called the Recycling of Ships Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

(*3*) Unless otherwise expressly provided, the provisions of this Act shall apply to—

(*a*) any existing ship which is registered in India wherever it may be;

(*b*) any new ship which is required to be registered in India, wherever it may be;

(*c*) ships, other than those referred to in clauses (*a*) and (*b*), that enter a port, shipyard or off-shore terminal or a place in India or within the Exclusive Economic Zone or territorial waters of India or any marine areas adjacent thereto over which India has, or may have, exclusive jurisdiction with respect to control of pollution under the provisions of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976, or any other law for the time being in force;

80 of 1976.

(*d*) any warship, naval auxiliary or other ship owned or operated by an Administration and used on Government non-commercial service, and which is destined for recycling in a ship recycling facility operating in or within the territorial jurisdiction of India; and

(*e*) ship recycling facilities operating in India or within any area falling under the exclusive territorial jurisdiction of India.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "Administration" means the Government of the country whose flag the ship is entitled to fly, or under whose authority it is operating;

(*b*) "certificate of authorisation of ship recycling facility" means the certificate referred to in sub-section (*6*) of section 12;

(*c*) "certificate on inventory of hazardous materials" means the certificate referred to in section 8;

(*d*) "Competent Authority" means such Authority designated by the Central Government under section 4;

(*e*) "hazardous material" means any material or substance, which is liable to cause harm to human beings, other living creatures, plants, micro-organisms, property or the environment;

(*f*) "National Authority" means such Authority designated by the Central Government under section 3;

(*g*) "notification" means a notification published in the Official Gazette and the expressions "notify" or "notified" shall be construed accordingly;

(*h*) "prescribed" means prescribed by rules made under this Act;

(*i*) "ready for recycling certificate" means the certificate referred to in section 16;

(*j*) "regulations" means the regulations made by the National Authority under this Act;

(*k*) "ship" means a vessel and floating structure of any type whatsoever operating or having operated in the marine environment and includes submersibles, floating craft, floating platforms, self-elevating platforms, the floating storage units, and the like;

(*l*) "ship owner" means—

(*i*) a person or an association of persons or body of individuals or a company registered as the owner of the ship;

(*ii*) any organisation or a person such as the Manager or the Bareboat Charterer, who has assumed the responsibility for operation of the ship from the owner of the ship;

(*iii*) a company, which is registered as operator and is operating a ship owned by the Government; or

(*iv*) a person or an association of persons or company owning the ship for a limited period pending its sale or handing over to a ship recycling facility;

(*m*) "Ship Recycler" means the owner of the ship recycling facility or any other organisation or person who has assumed the responsibility for operation of the ship recycling facility and who has agreed to take over all duties and responsibilities imposed by or under this Act;

(*n*) "ship recycling" means the activity of dismantling of a ship at a ship recycling facility in order to recover components and materials for reprocessing and reuse, while taking care of hazardous and other materials and includes associated operations such as storage, treatment of components and materials on site, but not their further processing or disposal in separate facilities;

(*o*) "ship recycling facility" means a defined area that is a site, yard or facility used for the recycling of ships and meets such requirements as may be specified by the regulations;

(*p*) "ship recycling plan" means a plan specific to a ship developed by the ship recycling facility to recycle such a ship in safe and environmentally sound manner;

(*q*) "statement of acceptance" means a statement of acceptance referred to in sub-section (*4*) of section 20;

(*r*) "statement of completion" means a statement of completion referred to in section 23;

(*s*) "Surveyor" means a Surveyor as defined under clause (*48*) of section 3 of the Merchant Shipping Act, 1958 or any other person or body of persons as may be notified by the Central Government; 80 of 1976.

(*t*) "worker" means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not, in any ship recycling, or in cleaning any part of the

machinery or premises used for ship recycling, or in any other kind of work incidental to, or connected with, the ship recycling, or the subject of the ship recycling but does not include any member of the armed forces of the Union.

(*2*) The words and expressions used and not defined in this Act but defined in the—

4 of 1884. (*i*) Explosives Act, 1884;

1 of 1917. (*ii*) Inland Vessels Act, 1917;

30 of 1934. (*iii*) Petroleum Act, 1934;

63 of 1948. (*iv*) Factories Act, 1948;

44 of 1958. (*v*) Merchant Shipping Act, 1958;

33 of 1962. (*vi*) Atomic Energy Act,1962;

53 of 1972. (*vii*) Wildlife (Protection) Act, 1972;

6 of 1974. (*viii*) Water (Prevention and Control of Pollution) Act, 1974;

80 of 1976. (*ix*) Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976;

69 of 1980. (*x*) Forest (Conservation) Act, 1980;

14 of 1981. (*xi*) Air (Prevention and Control of Pollution) Act, 1981;

29 of 1986. (*xii*) Environment (Protection) Act, 1986,

shall have the same meanings respectively assigned to them in those Acts.

CHAPTER II

AUTHORITIES UNDER THE ACT

Designation of National Authority.

3. The Central Government shall, by notification, designate an officer not below the rank of Joint Secretary to the Government of India as the National Authority, which shall administer, supervise and monitor all activities relating to ship recycling under this Act.

Designation of Competent Authority.

4. The Central Government shall, by notification, designate an Authority to be called the Competent Authority, for performance of such duties within the geographical area or areas of expertise as may be prescribed.

CHAPTER III

REQUIREMENTS FOR SHIPS

Non-application of provisions of this Chapter.

5. Nothing contained in this Chapter shall apply to—

(*a*) any warship, naval auxiliary, or other ships owned or operated by the Government and used for Government non-commercial purpose;

(*b*) ships of less than five hundred gross tonnage:

Provided that the Central Government may notify appropriate measures, not impairing operations or operational capabilities of such ships to ensure, as far as practicable, that such ships act in a manner consistent with the provisions of this Act.

Controls on hazardous materials.

6. (*1*) No ship shall install or use such prohibited hazardous materials as may be notified by the Central Government:

Provided that the Central Government may, by notification and for the reasons specified therein, exempt certain class or category of ships from the provisions of sub-section (*1*).

(*2*) Every ship shall comply with such restrictions and conditions, as may be prescribed.

Surveys.

7. (*1*) The National Authority or such person or organisation, as the Central Government may by notification authorise, shall carry out following surveys of the ships—

(*a*) an initial survey before the issue of certificate on inventory of hazardous materials, so as to verify such requirements as may be prescribed;

(*b*) a renewal survey at intervals not exceeding five years as may be prescribed;

(*c*) an additional survey either general or partial, at the request of the ship owner after a change, replacement or significant repair of the structure, equipment, systems, fittings, arrangements or material;

(*d*) a final survey prior to the ship being taken out of service and before the recycling of the ship so as to verify such requirements as may be prescribed; and

(*e*) such other surveys as may be prescribed.

(*2*) The survey shall be conducted and a certificate to this effect shall be issued in accordance with the provisions of this Act and the rules or regulations made thereunder.

Certificate on inventory of hazardous materials.

8. (*1*) The owner of every new ship shall make an application to the National Authority for a certificate on inventory of hazardous materials for the purposes of this Act and such certificate shall be specific to each ship:

Provided that the existing ships on the date of commencement of this Act and for which the certificate on inventory of hazardous materials had not been issued, the owner of such ship shall make an application to the National Authority within a period of five years from the date of commencement of this Act:

Provided further that a certificate on inventory of hazardous materials issued by any Administration shall be valid for the purposes of this Act.

(*2*) The terms and conditions, the format and the manner for granting the certificate on inventory of hazardous materials shall be such as may be prescribed.

(*3*) The certificate on inventory of hazardous materials shall be properly maintained and updated throughout the operational life of the ship, reflecting the new installations containing hazardous materials and relevant changes in the ship structure and equipment.

Explanation.—For the purposes of this sub-section, the expression "new installation" includes systems, equipment, insulation or other material installed on a ship after the date of coming into force of this Act.

(*4*) The certificate on inventory of hazardous materials shall be endorsed by the National Authority after successful completion of an additional survey conducted in accordance with clause (*c*) of sub-section (*1*) of section 7.

Explanation.—For the purposes of this section, the expressions—

(*i*) "existing ship" means a ship which is not a new ship;

(*ii*) "new ship" means a ship,—

(*a*) for which the building contract is placed on or after the date of coming into force of this Act; or

(*b*) other than the ship referred to in sub-clause (*a*), the keel of which is laid or which is at a similar stage of construction after six months from the date of coming into force of this Act; or

(*c*) which is to be delivered after thirty months from the date of coming into force of this Act,

and which is intended to be registered in India.

Validity of certificate.

9. The certificate referred to in sub-section (*1*) of section 8 shall be issued or renewed for such period, not exceeding five years, as may be prescribed:

Provided that where validity of certificate on inventory of hazardous material expires at a time when a ship is not in the port in which it is to be surveyed, the Administration may extend the period of validity of such certificate and this extension shall be granted only—

(*a*) for the purpose of allowing the ship to complete its voyage to the port in which it is to be surveyed; or

(*b*) in cases where it appears proper and reasonable to the Administration to do so:

Provided further that no certificate shall be extended for a period longer than three months, and a ship to which an extension is granted shall not, on its arrival on the port in which it is to be surveyed, be entitled by virtue of such extension to leave that port without having the certificate renewed.

Suspension or cancellation of certificate.

10. The certificate on inventory of hazardous materials shall be liable to be suspended or cancelled by the National Authority in any of the following cases, namely:—

(*i*) if the ship, *prima facie*, does not comply with the particulars of the certificate;

(*ii*) where the inventory of hazardous materials is not properly maintained and updated with such changes in the ship structure and equipment as may be prescribed;

(*iii*) in case of transfer of the ship to the flag of another State;

(*iv*) if the survey specified by the Administration is not completed within the period specified in section 7; or

(*v*) if endorsement of certificate does not disclose,—

(*a*) conduct of an additional survey as required under section 7; or

(*b*) extension of the validity of the certificate required under section 9:

Provided that no certificate under this section shall be suspended or cancelled unless the owner of the ship has been given an opportunity of being heard.

CHAPTER IV

SHIP RECYCLING FACILITY

Authorisation of ship recycling facility.

11. No Ship Recycler shall recycle a ship, unless the ship recycling facility is authorised as per the procedure laid down in section 12.

Ship recycling facility management plan and procedure for authorisation of ship recycling facility.

12. (*1*) A Ship Recycler seeking a certificate of authorisation for ship recycling facility from the Competent Authority or an organisation recognised by it, shall prepare a ship recycling facility management plan as specified by the regulations and submit an application to the Competent Authority.

(*2*) Every application for authorisation under sub-section (*1*), shall be made to the Competent Authority in such form and manner and accompanied by such fee as may be prescribed.

(*3*) Every ship recycling facility engaged in recycling of ships, immediately before the commencement of this Act, shall apply for authorisation within sixty days from the date of such commencement.

(*4*) Subject to the provisions of sub-section (*3*), every ship recycling facility engaged in recycling of ships, immediately before the commencement of this Act shall cease to conduct any such recycling on the expiry of six months from the date of commencement of

this Act unless such ship recycling facility has applied for authorisation and is so authorised or till such application is disposed of, whichever is earlier.

(*5*) No ship recycling facility shall be authorised under this Act unless the Competent Authority is satisfied that such facility maintains such equipment and standards as may be specified by the regulations.

(*6*) The Competent Authority shall, after holding an enquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules and the regulations made thereunder, grant a certificate of authorisation in such format as may be specified by the regulations.

(*7*) If, after an enquiry and after giving to the applicant an opportunity of being heard, the Competent Authority is satisfied that the applicant has not complied with the requirements of this Act, or the rules or regulations made thereunder, it shall, for reasons to be recorded in writing, reject the application for authorisation.

(*8*) Every certificate of authorisation for ship recycling facility shall be valid for such period not exceeding five years as may be specified by the regulations.

(*9*) Every certificate of authorisation shall be renewed in such manner and after such period and on payment of such fee as may be prescribed.

(*10*) The Competent Authority shall undertake an annual audit of every ship recycling facility to satisfy compliance with the requirements of this Act, the rules and regulations made thereunder and forward such audit report to the National Authority.

Suspension or cancellation of authorisation.

13. (*1*) The Competent Authority may, whenever it considers necessary, for the reasons to be recorded in writing, conduct an enquiry or inspection of a ship recycling facility and issue a notice to the Ship Recycler to show cause as to why the authorisation of his ship recycling facility should not be suspended or cancelled for the reasons mentioned in the notice.

(*2*) The manner of enquiry or inspection by the Competent Authority shall be such as may be specified by the regulations.

(*3*) If the Competent Authority is satisfied that there has been a breach of the provisions of this Act or the rules or the regulations made thereunder, it may, without prejudice to any criminal action that it may take against such Ship Recycler, suspend or cancel the authorisation of his ship recycling facility:

Provided that no such authorisation shall be suspended or cancelled without giving an opportunity of being heard in the matter to the Ship Recycler.

(*4*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), if the Competent Authority is of the opinion that it is necessary or expedient so to do in public interest, it may, for reasons to be recorded in writing, suspend or cancel the authorisation of any ship recycling facility without issuing any notice referred to in sub-section (*1*).

Emergency preparedness and response.

14. Every Ship Recycler shall maintain adequate measures for emergency preparedness and response in accordance with the provisions of the Factories Act, 1948 in his ship recycling facility. 63 of 1948.

Workers safety, training and insurance.

15. (*1*) Every Ship Recycler shall provide adequate measures for safety, health, training and welfare of workers in his ship recycling facility and for this purpose, the provisions of the Factories Act, 1948 shall apply. 63 of 1948.

(*2*) Every Ship Recycler shall provide an individual or comprehensive insurance coverage for the regular and temporary workers in such manner as may be prescribed.

CHAPTER V

PROCESS OF RECYCLING OF SHIPS

Ready for recycling certificate.

16. (*1*) The owner of a ship who intends to recycle his ship shall make an application to the National Authority for a ready for recycling certificate in such form, manner, and accompanied by such fee as may be specified by the regulations or the Administration concerned as per the procedure determined by such Administration.

(*2*) A ready for recycling certificate referred to in sub-section (*1*) may be issued after successful completion of a survey and shall be valid for a period of three months from the date of its issue:

Provided that the period of validity may be extended by the National Authority for such reasons as may be specified by the regulations or the Administration concerned as per the reasons determined by such Administration.

(*3*) A ready for recycling certificate shall cease to be valid, if the condition of the ship does not correspond with the particulars of the certificate.

Ship recycling plan.

17. (*1*) No Ship Recycler shall recycle any ship without a ship recycling plan prepared in accordance with the guidelines issued under sub-section (*2*) and approved by the Competent Authority.

(*2*) The National Authority may specify the guidelines for the preparation of a ship recycling plan for different categories of ships:

Provided that the Competent Authority may, after hearing the Ship Recycler, refuse to approve the ship recycling plan if it has reasons to believe that the plan does not comply with the guidelines specified by the National Authority.

(*3*) Where the Competent Authority fails to convey its decision regarding approval of the ship recycling plan within fifteen days of its submission, the plan shall be deemed to have been approved.

General requirements.

18. (*1*) No ship shall be recycled without the written permission or, as the case may be, the deemed permission of the Competent Authority obtained in such manner as may be specified by the regulations.

(*2*) Any ship registered in India and intended to be recycled outside the territory of India shall be recycled only at a ship recycling facility duly authorised by such authority as may be specified by the regulations.

Obligations on part of ship owner.

19. (*1*) The owner of a ship which is intended to be recycled within the territory of India shall—

(*i*) give an advance intimation to the Maritime Rescue Co-ordination Centre and the Competent Authority about the date of arrival, in such manner as may be prescribed;

(*ii*) clear all port dues, if any, upon arriving at the port and submit the documents as specified in the regulations; and

(*iii*) keep the ship clear of cargo residues and shall minimise any remaining fuel oil and wastes on board.

(*2*) The owner of a tanker which is intended to be recycled within the territory of India shall fulfill such conditions for safe-for-entry or safe-for-hotwork or both, as specified by the regulations.

Procedure for grant of permission for ship recycling.

20. (*1*) The Competent Authority shall grant permission for recycling only after physical inspection of the ship and for this purpose it may requisition the services of representatives of such agencies as may be prescribed.

(*2*) Where the Competent Authority fails to convey its decision regarding grant of permission within fifteen days of receipt of application, the permission shall be deemed to have been granted.

(*3*) The Competent Authority may deny permission for recycling for reasons to be recorded in writing after affording an opportunity of being heard to the ship owner.

(*4*) The Ship Recycler, on receipt of a copy of permission to recycle the ship, shall issue a statement of acceptance to the ship owner under intimation to the Competent Authority in such form and manner as may be specified by the regulations and thereafter the ship owner may get the ship de-registered.

Safe and environmentally sound management of hazardous materials.

21. Every Ship Recycler shall,—

(*a*) ensure safe and environmentally sound removal and management of hazardous materials from a ship; and

(*b*) comply with such requirements related to basic infrastructure facilities including those related to environmentally safe disposal or management of wastes and hazardous materials, in such manner as may be specified by the regulations.

Obligation on Ship Recycler to take measures for protection of environment.

22. (*1*) Every Ship Recycler shall—

(*i*) ensure that there is no damage caused to the environment in any form due to the recycling activities at the ship recycling facility; and

(*ii*) take necessary measures for protection of the environment.

(*2*) In case of oil spill in the facility, the Ship Recycler shall be served a notice by the Competent Authority to take remedial action in such manner as may be specified by the regulations.

(*3*) For contravention of the provisions of this section, the Ship Recycler shall be liable to pay such environmental damages and cleanup operation compensation in such manner as may be prescribed.

CHAPTER VI

REPORTING REQUIREMENTS

Statement of completion.

23. When a ship is recycled in accordance with the provisions of this Act, a statement of completion containing such particulars as may be specified by the regulations shall be submitted by the Ship Recycler to the Competent Authority.

Report to National Authority.

24. The Competent Authority shall give report to the National Authority, from time to time, which shall include information comprising the list of approved facilities, list of ships which have not complied with the provisions of this Act and action taken on such ships and list of ships recycled, as may be required by the National Authority.

CHAPTER VII

APPEALS

Appeal against decision of Competent Authority.

25. (*1*) Any person who is aggrieved by any decision made by the Competent Authority or the authorised surveyor or any authorised organisation or authorised person may file an appeal to the National Authority within a period of thirty days from the date of receipt of such decision in such manner as may be prescribed:

Provided that in respect of matters under any other law for the time being in force for which an appellate provision exists, in such law, then the appellant shall file the appeal to the authority specified in such law.

(*2*) The appeal filed under sub-section (*1*) shall be disposed of in such manner as may be prescribed.

Appeal against decision of National Authority.

26. (*1*) Any person who is aggrieved by any decision made by the National Authority may file an appeal to the Central Government within a period of thirty days from the date of receipt of such decision in such manner as may be prescribed.

(*2*) The appeal filed under sub-section (*1*) shall be disposed of in such manner as may be prescribed.

CHAPTER VIII

POWERS AND FUNCTIONS OF NATIONAL AUTHORITY, COMPETENT AUTHORITY AND CENTRAL GOVERNMENT

Power to search and seize records, etc.

27. (*1*) If the National Authority or the Competent Authority has reason to believe that an offence under this Act has been or is being committed at any ship recycling facility, such Authority or any officer authorised therefor in this behalf may, subject to the rules and regulations made under this Act, enter and search at all reasonable times with such assistance, if any, as such Authority or officer considers necessary, such ship recycling facility and examine any record, register, document, equipment or any other material object found therein and seize the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

2 of 1974.

(*2*) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

Power to inspect, dismiss, exclude or detain a ship.

28. (*1*) The National Authority or Administration or any Survey authorised by it, may inspect any ship, at a reasonable time, while at any port or within Indian waters:

Provided that any such inspection shall be only for the purpose of verifying that there is on board either a certificate on inventory of hazardous materials or a ready for recycling certificate.

(*2*) The National Authority may dismiss, exclude or detain the ship from its ports or within Indian waters in case of,—

(*a*) failure to carry a valid certificate on inventory of hazardous materials or a valid ready for recycling certificate or both, as applicable; or

(*b*) non-compliance with the control measures for hazardous materials notified by the Central Government.

(*3*) A ship detained under sub-section (*2*) shall remain under detention till such time until the non-compliance is rectified or till such time until permission is granted by the National Authority for such detained ship to proceed to an appropriate repair yard or port, without danger to the ship, environment or persons on board.

(*4*) Any Commissioned Officer of the Indian Navy or Indian Coast Guard or any Port Officer, Pilot, Harbour Master, Conservator of Port or Customs Collector may detain the ship, the detention of which is authorised or ordered to be detained under this Act.

Power to exempt.

29. (*1*) Notwithstanding anything contained in this Act, the Central Government may, by order in writing and upon such conditions, if any, as it may think fit to impose, exempt any vessel or any class thereof, ship recycling facility or Ship Recycler from any specified requirement contained in or prescribed in pursuance of this Act or dispense with the observance of any such requirement, if it is satisfied that the requirement has been substantially complied with or that compliance with the requirement is or ought to be dispensed within the circumstances of the case.

(*2*) Where an exemption granted under sub-section (*1*) is subject to any conditions, a breach of any of those conditions shall, without prejudice to any other remedy, be deemed to be an offence under this Act.

Act not to apply to certain ships.

30. The provisions of this Act shall not apply to such category of Indian ships, as the Central Government may, from time to time, by notification specify:

Provided that such ships shall be required to act in such manner as may be prescribed.

CHAPTER IX

OFFENCES, PENALTIES AND COMPENSATION

Penalty for contravention of provisions of Act or rules or regulations.

31. (*1*) Whoever installs or uses any prohibited hazardous material in a ship in contravention of the provisions of this Act or rules or regulations made thereunder shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five lakh rupees or with both.

(*2*) Whoever contravenes the provisions of section 12 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten lakh rupees or with both.

(*3*) Whoever contravenes the provisions of sub-section (*1*) of section 17 shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten lakh rupees or with both.

(*4*) Whoever contravenes the provisions of sub-section (*1*) of section 18, shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to ten lakh rupees or with both.

(*5*) Whoever fails to ensure safe and environmentally sound removal and management of any hazardous material from a ship in accordance with the regulations shall be punishable with an imprisonment for a term which may extend to six months or with fine which may extend to five lakh rupees or with both.

(*6*) Whoever fails to respond to the notice issued for oil spill under sub-section (*2*) of section 22 shall be punishable—

(*i*) with a fine which may extend to five lakh rupees in case of non response within twelve hours of issuance of first notice;

(*ii*) with a fine which may extend to ten lakh rupees in case of non response within twenty-four hours of issue of second notice; and

(*iii*) with an imprisonment which may extend to three months and with a fine which may extend to ten lakh rupees in case of non response beyond twenty-four hours of issue of third notice.

Penalty for contravention of provisions of this Act or rules or regulations for which no specific punishment is provided.

32. Whoever contravenes any of the provisions of this Act or any rules or regulations made thereunder, for which no specific punishment has been provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to two lakh rupees or with both and, in the case of a continuing contravention, with an additional fine which may extend to five thousand rupees for every day during which such contravention continues after the conviction for the first such contravention.

Punishment for other offences.

33. (*1*) If any ship, after detention or after service of any notice or order for such detention, proceeds to sea before it is released by the National Authority, the owner or master of the ship shall be guilty of an offence under this Act.

(*2*) Whoever restrains or detains or forcibly takes to sea, any person authorised under this Act to detain or survey the ship, on the execution of his duty, the owner, master or agent of such ship shall each be liable to pay all expenses of, and incidental to, such person being so taken to sea and shall also be guilty of an offence under this Act.

Offences by companies.

34. (*1*) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a co-operative society, firm or other association of individuals; and

(*b*) "director" means a whole time director in the company and in relation to a firm means a partner in the firm.

Offences to be non-cognizable, bailable and compoundable.

2 of 1974.

35. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence under this Act shall be non-cognizable, bailable and compoundable.

Cognizance of offences.

36. No court shall take cognizance of an offence under this Act except on a complaint made by—

(*a*) the Central Government;

(*b*) the National Authority or an officer authorised in this behalf; or

(*c*) the Competent Authority or an officer authorised in this behalf.

Amount payable by owner, master or agent.

37. When any owner or master or agent is convicted of an offence under sub-section (*2*) of section 33, the amount payable on account of expenses by such owner or master or agent shall be determined and recovered in such manner as may be prescribed.

Place of trial and jurisdiction of court.

38. Any person committing any offence under this Act or any rules made thereunder, may be tried for such offence in any place in which he may be found, or in any Court which the Central Government may, by notification, direct in this behalf, or in any Court in which he might be tried under any other law for time being in force.

Compensation.

39. (*1*) Where a ship is unduly detained or delayed as a result of an inspection or investigation without any reasonable cause, then, such ship shall be entitled to compensation for any loss or damage suffered thereby.

(*2*) The rate of compensation referred to in sub-section (*1*), the method of calculation and the manner of payment of such compensation shall be such as may be prescribed.

(*3*) For the purpose of adjudging compensation under this section, the Central Government may, by notification, nominate an officer of the Central Government, not below the rank of Joint Secretary to the Government of India, to be an adjudicating officer for holding an inquiry in the prescribed manner, after giving any person concerned an opportunity of being heard.

CHAPTER X

MISCELLANEOUS

Delegation of powers.

40. (*1*) The Central Government may, by general or special order, subject to such conditions and restrictions as may be provided in such order, direct that any power, authority or jurisdiction exercisable by it under or in relation to a provision of this Act (except the power to make rules), be exercisable also by the National Authority or Competent Authority or such other officer not below the rank of Joint Secretary to the Government of India.

(*2*) The National Authority or the Competent Authority may, with the previous approval of the Central Government, by general or special order, subject to such conditions and restrictions as may be provided in such order, direct that any power, authority or jurisdiction exercisable by it under or in relation to a provision of this Act (except the power to make regulations), be exercisable also by such officer or other authority as may be specified in such order.

Act not in derogation of any other law.

41. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

42. (*1*) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the duties of Competent Authority within the geographical area or areas of expertise under section 4;

(*b*) the restrictions and conditions imposed on installation or use of any hazardous material, to be complied by every ship under sub-section (*2*) of section 6;

(*c*) the requirements to be verified for the survey of ships under clauses (*a*), (*b*) and (*d*) of sub-section (*1*) of section 7;

(*d*) the other conditions to be required for the survey of ships under clause (*e*) of sub-section (*1*) of section 7;

(*e*) the terms and conditions, validity, the format and manner for granting the certificate on inventory of hazardous materials under sub-section (*2*) of section 8 and section 9;

(*f*) the changes in ship structures and equipment under clause (*ii*) of section 10;

(*g*) the form, fees and the manner of making the application for authorisation of ship recycling facility under sub-section (*2*) of section 12;

(*h*) the manner, period and fees for renewal of certificate of authorisation under sub-section (*9*) of section 12;

(*i*) the manner of providing individual or comprehensive insurance coverage for the regular and temporary workers under sub-section (*2*) of section 15;

(*j*) the manner of advance intimation about the arrival of ship under sub-section (*1*) of section 19;

(*k*) requisition of the services of representatives of agencies for grant of permission under sub-section (*1*) of section 20;

(*l*) the liability of the Ship Recycler for environmental damages under sub-section (*3*) of section 22;

(*m*) the manner of filing an appeal against the orders of the Competent Authority and the manner of disposal of such appeal under section 25;

(*n*) the manner of filing an appeal against the orders of National Authority and the manner of disposal of such appeal under section 26;

(*o*) the manner in which the ships are required to act for non-application of the provisions of the Act under the proviso to section 30;

(*p*) the manner of determination and recovery of amount payable under section 37;

(*q*) the rate of compensation, method of calculation and the manner of compensation entitled by a ship under sub-section (*2*) of section 39;

(*r*) the manner of holding an inquiry for the purpose of payment of compensation under sub-section (*3*) of section 39; and

(*s*) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by rules.

Power to make regulations.

43. (*1*) The National Authority with the previous approval of the Central Government, by notification in the Official Gazette, may make regulations not inconsistent with the provisions of this Act and the rules made thereunder.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the requirements relating to ship recycling facility under clause (*o*) of sub-section (*1*) of section 2;

(*b*) the manner of preparation of a ship recycling facility management plan under sub-section (*1*) of section 12;

(*c*) the equipment and other standards to be maintained by the Ship Recycler under sub-section (*5*) of section 12;

(*d*) the form in which a certificate of authorisation shall be issued under sub-section (*6*) of section 12;

(*e*) the period of validity of certificate of authorisation for ship recycling facility under sub-section (*8*) of section 12;

(*f*) the manner of enquiry or inspection by the Competent Authority under sub-section (*2*) of section 13;

(*g*) the manner of making an application to the National Authority for a ready for recycling certificate under sub-section (*1*) of section 16;

(*h*) the manner and format for issuing of the ready for recycling certificate under sub-section (*2*) of section 16;

(*i*) the manner of obtaining the written permission of the Competent Authority under sub-section (*1*) of section 18;

(*j*) the authority to authorise the ship recycling facility under sub-section (*2*) of section 18;

(*k*) submission of documents by ship owner under clause (*ii*) of sub-section (*1*) of section 19;

(*l*) the conditions for safe-for-entry or safe-for-hotwork or both under sub-section (*2*) of section 19;

(*m*) the form and manner of issue of statement of acceptance by the Ship Recycler under sub-section (*4*) of section 20;

(*n*) the requirements relating to removal and management of hazardous materials and basic infrastructure to be complied with by the Ship Recycler under clause (*b*) of section 21;

(*o*) the manner of serving of notice by the Competent Authority to a Ship Recycler in case of oil spill under sub-section (*2*) of section 22;

(*p*) the manner of submission of statement of completion by the Ship Recycler under section 23; and

(*q*) any other matter which is required to be, or may be, specified by regulations.

Laying of rules and regulations.

44. Every rule made by the Central Government and every regulation made by the National Authority under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Protection of action taken in good faith.

45. No suit, prosecution or other legal proceeding shall lie against the Central Government or the State Government or the National Authority or the Competent Authority or any officer authorised by the Central Government or the State Government or the National Authority or the Competent Authority for anything done in good faith or intended to be done in pursuance of the provisions of this Act.

Removal of difficulties.

46. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Provided that no such order shall be made under this section after the expiry of a period of three years from the date of commencement of this Act.

(*2*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

India is a leader in the global ship recycling industry with a share of over thirty per cent. The ship recycling industry is a labour-intensive sector, but, it is susceptible to concerns relating to environmental safety. The existing regulatory framework, namely, the Ship Breaking Code (Revised), 2013, governs the ship recycling activity in India and lays down the standards for environmental protection and workers' safety. However, the said Code does not provide penalties for contravention of the provisions of the Code or deal with the restrictions and prohibitions on use of hazardous materials on ships.

2. In view of the above, it is proposed to enact a legislation to provide for restrictions or prohibitions on use of hazardous material on ships and regulation of recycling of ships by setting certain standards and laying down the statutory mechanism for enforcement of such standards and for matters connected therewith or incidental thereto.

3. The proposed Recycling of Ships Bill, 2019, *inter alia*, provides for the following, namely:—

(*i*) to designate an Authority to be called the National Authority to administer, supervise and monitor all activities relating to ship recycling;

(*ii*) to designate an Authority to be called the Competent Authority, to perform the prescribed duties within the geographical areas of expertise;

(*iii*) the provisions of this Bill shall not apply to any warship, naval auxiliary, or other ships owned or operated by the Government and used for Government non-commercial purpose;

(*iv*) to provide that no ship shall install or use any prohibited hazardous material notified by the Central Government;

(*v*) to issue a certificate on inventory of hazardous materials and ready for recycling certificate which are an essential documents to the ships which are destined to be recycled by its owner;

(*vi*) the provisions relating to ship recycling plan which shall be prepared by the Ship Recycler and the general requirements for recycling of ships;

(*vii*) to impose an obligation on the Ship Recycler to take measures for protection of environment during the process of ship recycling; and

(*viii*) providing for appeal against the orders of Competent Authority to the National Authority and from the National Authority to the Central Government.

4. The Notes on clauses explain in detail the various provisions contained in the Bill.

5. The Bill seeks to achieve the above objectives.

NEW DELHI; MANSUKH MANDAVIYA.

The 21*st November*, 2019.

Notes on Clauses

Clause 1. This Clause relates to the short title and commencement of the proposed legislation and enables the Central Government to appoint a date with respect to the commencement of the provisions of the proposed legislation. This Clause also specifies that the legislation shall apply to every existing ship, every new ship required to be registered in India, other ships while there within the Exclusive Economic Zone or territory borders of India and all ship recycling facilities within the territorial jurisdiction of India.

Clause 2. This Clause contains the definition of various expressions used in the proposed legislation.

Clause 3. This Clause provides that the Central Government will designate an officer not below the rank of Joint Secretary, as National Authority to administer, supervise and monitor all activities relating to ship recycling under this legislation.

Clause 4. This Clause provides that the Central Government shall designate the Competent Authority for performance of specified duties in the prescribed geographical area or area of expertise.

Clause 5. This Clause provides that the chapter on "Requirements for Ships" will not apply to any ship owned or operated by the Government and used for noncommercial purposes and ships of less than five hundred gross tonnage.

Clause 6. This Clause empowers the Central Government to control installation or use of notified prohibited hazardous materials on ships.

Clause 7. This Clause empowers the national authority or the person or organisation authorized by Central Government to conduct different types of surveys of the ships.

Clause 8. This Clause provides that every ship should posses and maintain a Certificate on Inventory of Hazardous Materials and lays down the process for issue of the Certificate.

Clause 9. This Clause lays down the period of validity of the Certificate on Inventory of Hazardous Materials.

Clause 10. This Clause lays down the process for suspension or cancellation of the Certificate on Inventory of Hazardous Materials.

Clause 11. This Clause provides that no ship shall be recycled in a facility not authorized under this Act.

Clause 12. This Clause lays down the process for authorization of ship recycling facility.

Clause 13. This Clause lays down the process for suspension or cancellation of authorization of ship recycling facility.

Clause 14. This Clause provides that every ship recycler shall maintain adequate measures for emergency preparedness and response as per the provisions of the Factory Act, 1948.

Clause 15. This Clause provides that every ship recycler shall maintain adequate measures for workers' safety, health, instruction, supervision, training and welfare as per the provisions of factory Act, 1948.

Clause 16. This Clause lays down the process for issue of Ready for Recycling Certificate and its validity.

Clause 17. This Clause lays down the requirement of a ship recycling plan for every ship to be recycled and the process for its preparation and approval.

Clause 18. This Clause prescribes general requirements of prior permission for recycling of the ship.

Clause 19. This Clause prescribes certain obligations on the part of owner of a ship which is intended to be recycled in India.

Clause 20. This Clause prescribes the process for grant of permission for recycling of a ship.

Clause 21. This Clause prescribes certain obligations on the part of ship recycler for safe and environmentally sound management of hazardous materials.

Clause 22. This Clause prescribes certain obligations on the part of ship recycler for taking measures for protection of environment.

Clause 23. This Clause prescribes that statement of completion will be issued after a ship has been recycled in accordance with the provisions of the legislations.

Clause 24. This Clause provides for submission of reports by the Competent Authority to the National Authority.

Clause 25. This Clause provides for appeal against the decisions of the Competent Authority.

Clause 26. This Clause provides for appeal against the decisions of the National Authority.

Clause 27. This Clause empowers the National Authority or the Competent Authority to search and seize any records if it has reason to believe that any offence under this legislation has been or is being committed in any ship recycling facility.

Clause 28. This Clause empowers the National Authority or any authorised surveyor to inspect, dismiss, exclude and detain a ship when it's not carrying valid certificate or is not complying with the control measures for hazardous materials.

Clause 29. This Clause empowers the Central Government to exempt any vessel or any class of vessels or any ship recycling facility or any ship recycler, by an order in writing and subject to specified conditions, from the provisions of this legislation.

Clause 30. This Clause empowers the Central Government to specify any category of ships to which the provisions of this legislation will not apply.

Clause 31. This Clause prescribes the penalties for contravention of the provisions of this legislation or rules or regulations made this legislation.

Clause 32. This Clause prescribes the penalties for contravention of the provisions of this legislation or rules or regulations made this legislation, for which no specific punishment has been provided in this legislation.

Clause 33. This Clause prescribes punishment for other offences under this legislation, when a ship under detention proceeds to the sea before it is released and when any person authorised to detain or survey a ship is restrained or detained or forcibly taken to sea.

Clause 34. This Clause relates to the offences by companies and *inter alia*, states that if the person committing an offence under the proposed legislation is a company, then, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. This Clause further provides that no such person shall be liable to punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

Clause 35. This Clause provides that offences this under legislation will be non-cognizable, bailable and compoundable.

Clause 36. This Clause provides that a court will take cognizance of any offence under this legislation only on a complaint by the Central Government, National Authority, Competent Authority or an Authorized Officer.

Clause 37. This Clause provides for determination and recovery of amount payable on account of expenses when any offence is committed under *Clause* 33 of this legislation.

Clause 38. This Clause specifies the place and the jurisdiction of the court for trial for an offence under this legislation.

Clause 39. This Clause provides for payment of compensation for any loss or damage suffered by any ship which is found to be unduly detained or delayed without any reasonable cause and provides that the Central Government may nominate an officer of the rank of Joint Secretary or above as the adjudicating officer for adjudging the compensation.

Clause 40. This Clause provides that Central Government may delegate its powers under this legislation to National Authority or Competent Authority or an officer not below the rank of Joint Secretary and also provides for delegation of its powers by the National Authority or the Competent Authority or any officer of Authority.

Clause 41. This Clause provides that the provisions of this legislation will be in addition to and not over rule the provisions of any other legislation already in force.

Clause 42. This Clause provides that the Central Government may, by notification make rules for carrying out the provisions of this legislation.

Clause 43. This Clause provides that the National Authority may, with the prior approval of Central Government and by notification, make regulations for carrying out the provisions of this legislation.

Clause 44. This Clause provides that every rule and regulation made under this legislation shall be laid, as soon as may be after it is made, before each house of Parliament.

Clause 45. This Clause gives protection to the Central Government or State Government or the National Authority or Competent Authority or any authorised person for anything which is done or intended to be done in good faith in pursuance of the provisions of this legislation.

Clause 46. This Clause relates to removal of difficulties and provides that if any difficulty arises in giving effect to the provisions of the proposed legislation, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of the Act, as appears to it to be necessary or expedient for removing the difficulty and that every such order laid, as soon as may be after it is made, before each house of Parliament.

FINANCIAL MEMORANDUM

The provisions of the proposed Bill does not involve any expenditure either recurring or non-recurring from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 42 of the Recycling of Ships Bill, 2019 seeks to empower the Central Government to make rules for—(a) The duties of Competent Authority within the geographical area or areas of expertise under section 4; (b) the restrictions and conditions imposed on installation or use of any hazardous material, to be complied by every ship under sub-section (2) of section 6; (c) the requirements to be verified for the survey of ships under clauses (a), (b) and (d) of sub-section (1) of section 7; (d) the other conditions to be required for the survey of ships under clause (e) of sub-section (1) of section 7; (e) the terms and conditions, validity, the format and manner for granting the certificate on inventory of hazardous materials under sub-section (2) of section 8 and section 9; (f) the changes in ship structures and equipment under clause (ii) of section 10; (g) the form, fees and the manner of making the application for authorisation of ship recycling facility under sub-section (2) of section 12; (h) the manner, period and fees for renewal of certificate of authorisation under sub-section (9) of section 12; (i) the manner of providing individual/comprehensive insurance cover for permanent/ temporary workers under section (2) of section 15; (j) the manner of advance intimation about the arrival of ships under sub-section (1) of section 19; (k) requisition of the services of representatives of agencies and procedure for grant of permission under sub-section (1) of section 20; (l) the liability of the Ship Recycler for environmental damages under sub-section (3) of section 22; (m) the manner of filing an appeal against the orders of the Competent Authority and the manner of disposal of such appeal under section 25; (n) the manner of filing an appeal against the orders of National Authority and the manner of disposal of such appeal under sub-section (1) of section 26; (o) the manner in which the ships are required to act for non-application of the provisions of the Act under the proviso to section 30; (p) the manner of determination and recovery of amount payable under section 37; (q) the rate of compensation, the method of calculation and the manner of compensation entitled by a ship under sub-section (2) of section 39; (r) the manner of holding an inquiry for the purpose of payment of compensation under sub-section (3) of section 39; and (s) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by rules.

2. Clause 43 of the Bill empowers the National Authority, with the previous approval of the Central Government, by notification in the Official Gazette, to make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for—(a) the requirements relating to ship recycling facility under clause (o) of sub-section (1) of section 2; (b) the manner of preparation of a ship recycling facility management plan under sub-section (1) of section 12; (c) the equipment and other standards to be maintained by the Ship Recycler under sub-section (5) of section 12; (d) the form in which a certificate of authorisation shall be issued under sub-section (6) of section 12; (e) the period of validity of certificate of authorisation for ship recycling facility under sub-section (8) of section 12; (f) the manner of making an application to the National Authority for a ready for recycling certificate under sub-section (1) of section 16; (g) the manner and format for issuing of the ready for recycling certificate under sub-section (2) of section 16; (h) the manner of enquiry or inspection by the Competent Authority under sub-section (2) of section 13; (i) the manner of obtaining the written permission of the Competent Authority under sub-section (1) of section 18; (j) the authority to authorise the ship recycling facility under sub-section (2) of section 18; (k) submission of documents by ship owner under clause (ii) of sub-section (1) of section 19; (l) the conditions for safe-for-entry or safe-for-hotwork or both under sub-section (2) of section 19; (m) the form and manner of issue of statement of acceptance by the Ship Recycler under sub-section (4) of section 20; (n) the requirements relating to removal and management of hazardous materials and basic infrastructure to be complied with by the Ship Recycler under clause (b) of section 21; (o) the manner of serving of notice by the Competent Authority to a Ship Recycler in case of oil spill under sub-section (2) of section 22; (p) the manner of submission of statement of completion by the Ship Recycler under section 23; and (q) any other matter which is required to be, or may be, specified by regulations.

3. The matters in respect of which the aforementioned rules and regulations may be made are matters of procedure and administrative detail, and as such, it is not practicable to provide for them in the proposed Bill itself. The delegation of legislative power is, therefore, of a normal character.

BILL NO. 365 OF 2019

A Bill further to amend the Special Protection Group Act, 1988.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Special Protection Group (Amendment) Act, 2019.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

34 of 1988.

Amendment of section 4.

2. In section 4 of the Special Protection Group Act, 1988,—

(*i*) for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) There shall be an armed force of the Union called the Special Protection Group for providing proximate security to,—

(*a*) the Prime Minister and members of his immediate family residing with him at his official residence; and

(*b*) any former Prime Minister and such members of his immediate family as are residing with him at the residence alloted to him, for a period of five years from the date he ceases to hold the office of Prime Minister.";

(*ii*) in sub-section (*1A*), for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) where the proximate security is withdrawn from a former Prime Minister, such proximate security shall also stand withdrawn from members of immediate family of such former Prime Minister.".

STATEMENT OF OBJECTS AND REASONS

The Special Protection Group Act, 1988 (the Act) was enacted to provide for the constitution and regulation of the Special Protection Group (SPG) as an armed force of the Union for providing proximate security to the Prime Minister and his immediate family members. The Act was amended in 1991, 1994, 1999 and 2003 to extend SPG cover to former Prime Ministers and their immediate family members also, for different periods from demitting office of the Prime Minister. In 2003, it was last amended to extend SPG cover to former Prime Ministers and their immediate family members for one year of the demitting office of Prime Minister and thereafter based on level of threat periodically assessed by the Central Government.

2. In the Act, there is no cut off period for providing the SPG protection to former Prime Ministers or members of their immediate families. Thus, the number of individuals to be provided SPG cover can potentially become quite large. In such a scenario, there can be severe constraint on the resources, training and related infrastructure of SPG. This can also impact the effectiveness of SPG in providing adequate cover to the principle protectee, the Prime Minister in office.

3. Now, therefore, it is considered essential to amend the Act to focus on core mandate, as the security of the Prime Minister, as Head of the Government, is of paramount importance for Government, governance and national security. It assumes special significance in the given geo-political context of the country, its hostile neighbourhood and the multi-layered dimensions of threat the country is exposed to. In recognition of this critical security imperative for the Prime Minister in office, a special enactment was made to constitute the Special Protection Group with the sole objective of providing proximate security to the Prime Minister and the members of his immediate family.

4. The proposed Bill provides for the following, namely:—

(*a*) to substitute sub-section (*1*) of section 4 so as to provide that the Special Protection Group shall provide proximate security to the Prime Minister and members of his immediate family residing with him at his official residence and to any former Prime Minister and such members of his immediate family as are residing with him at the residence alloted to him, for a period of five years from the date he ceases to hold the office of Prime Minister;

(*b*) to substitute clause (*b*) of sub-section (*1A*) of section 4 so as to provide that where the proximate security is withdrawn from a former Prime Minister, such proximate security shall also stand withdrawn from members of immediate family of such former Prime Minister.

5. The Bill seeks to achieve the above objectives.

NEW DELHI; AMIT SHAH.
The 21*st November,* 2019.

FINANCIAL MEMORANDUM

The provisions of the proposed Bill does not involve any expenditure either recurring or non-recurring from the Consolidated Fund of India.

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SNEHLATA SHRIVASTAVA,
Secretary General.

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